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The Critical Trajectory of the Nozickean Philosophy:

From Social atomism and a Libertarian doctrine grounded thereupon to an interpretive-holistic conception of identity reaching toward a Post-Modern Politic.

By

G. Gerhardt Blume

A Thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Master of Arts.

Department of Philosophy.

Edmonton, Alberta
Fall 1997

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Degree: Master of Arts

Year this Degree Granted: 1997

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Abstract

My aim is to uncover the single developmental logic which one must assume underlies, and can rest a textual unity from, the disparate, mutually exclusive "books" Robert Nozick's works now represent. Only when viewed as fragments of a single unified text can one recognize the critical warrant his later works possess. Nozick's early Libertarian treatise, *Anarchy, State and Utopia*, is a work theoretically grounded in an atomistic epistemology. His later works, have, however, for reasons never fully articulated, abandoned this atomistic orientation and taken an interpretive wholistic turn. It is my belief that Nozick finds himself conceptually constrained to make this move when, in *Philosophical Explanations*, he first attempts to theorize the identity of the subject. (An identity his early libertarianism had simply and uncritically presupposed.) Nozick at this point finds that the atomistic conception of identity, assuming as it does a "soul pellet", a monad like, perduring and relationless, self identical subject, is pre-critical in the Kantian sense. Thus the basic premise upon which his libertarian doctrine, through its ordered sequence of deductions, was constructed, the atomistic individual, cannot simply be accepted as the constitutive given libertarianism assumed it to be. As this archeological project will attempt to reconstruct, Nozick hopes, through a succession of discursive transitions, that in his extant writings remain unmarked, to respond to the felt inadequacies of the libertarian conception of identity. Resting as it implicitly does on an atomistic epistemology, this attempt to give adequate theoretical expression to the subject eventually necessitates a complete theoretical inversion, leaving Nozick in the interpretive wholistic position his later work articulates.

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INTRODUCTION

The following might best be described as a philosophical-'archeological project'. My specific aim is to uncover the single developmental logic which one must assume underlies, and can wrest a textual unity from, the disparate, mutually exclusive "books" Robert Nozick's work now represents. Only when viewed as fragments of a single unified text will the critical warrant of his later works become apparent. In other words, Nozick's later works will have much more rational warrant when read in terms of an immanent critique of his earlier atomism. It is my intention that our work here, uncovering the implicit rationale that leads the early Nozick, through a series of discursive transitions, to his later position, present the (implicit) unified Nozikean text. Nozick's early Libertarian treatise, *Anarchy, State and Utopia*, is a work theoretically grounded in an atomistic epistemology. His later works have, however, for reasons never fully articulated, abandoned this atomistic orientation and taken an interpretive wholistic turn. It is my belief that Nozick finds himself conceptually constrained to make this move when, in *Philosophical Explanations*, he first attempts to theorize the identity of the subject (an identity his early libertarianism had simply, and uncritically, presupposed). Nozick, at this point, finds that the atomistic conception of identity, assuming as it does a "soul pellet", a monad like, perduring and relationless, self identical subject, is dogmatic in the Kantian sense[1]. Thus the basic premise upon which his libertarian doctrine, through its ordered sequence of deductions, was constructed, (i.e. the atomistic individual), cannot simply be accepted as the "constitutive given" libertarianism assumed it to be[2]. As this

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[1] By "dogmatic" or "pre-critical" in the Kantian sense I wish to identify the standard against which Kant properly holds philosophical speculation. Kant traces the source of the interminable disputes and contradictions within metaphysics to the use of concepts whose value has not, or in principle cannot, be tested against any possible experience. Philosophical theorizing then, is not simply a question of following received concepts, such as the libertarian conception of personal identity, to their inferential conclusions, but rather, must first demonstrate the rational necessity of positing these concepts. As Kant's transcendental deductive method demonstrates, we are not required to test our concepts directly against any particular experience, but receive critical warrant for our concepts if the reality they speak to is logically necessary to explain the very possibility of the experience which we already in fact have (*The Critique of Pure Reason* 32). As our discussion of the later Nozick's "Closest Continuer Theory" of personal identity (*Philosophical Explanations* 29) hopes to demonstrate, the libertarian conception of identity is in fact unable to account for the whole range of our experience with identity.

[2] Approaching *Anarchy, State, and Utopia* at the level of its constitutive premises allows us to avoid, in

archeological project will attempt to reconstruct, Nozick hopes, through a succession of discursive transitions, that in his extant writings remain unmarked, to respond to the felt inadequacies of the libertarian conception of identity. Resting as it implicitly does on an atomistic epistemology, this attempt to give adequate theoretical expression to the subject eventually necessitates a complete theoretical inversion, leaving Nozick in the interpretive wholistic position his later work articulates .

As suggested, the early Nozick follows the example set by the classical contractarian Locke in utilizing the rationally coercive method of logical deduction to construct that political frame-work which alone, at this point, he believes can be philosophically and morally justified. As with the classical libertarian theorists, Nozick begins his text with the seemingly irreducible political given, the atomistic individual. All theoretical construction remains therefore constrained through a deduction of all that this constitutive "root idea" can be shown to entail. What inexorably follows is of course the minimal, "night watchman state". Anything beyond its conceptual confines, regardless of how intuitively desirable, must be rejected for violating, implicitly or explicitly, the liberal "side constraints" that follow from the postulated existence of the atomistic individual.

In making the transition to interpretive holism however, Nozick is able to theorize those aspects of the subject and the state that his atomistic ontology and epistemology had previously prevented him from reaching. Although, for example, the concept of social unity, later represented in the guiding metaphor of organic unity, could, within the discursive limits of libertarianism, only be interpreted as a totalitarian, blanketing unity, the later wholistic epistemology, as Nozick demonstrates, has the conceptual resources to provide space, within the social totality, for the 'dialectical moment' of individual autonomy. Mirroring the libertarian atomistic conception or ontology of individual identity, the state in libertarian

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Professor Cooper's evocative phrase, the dry, "forensic analysis" of its lifeless theoretical body. If we can undermine the premises from which it is constructed we spare ourselves this tiresome effort. We might add, that at this point in the history of philosophy, this venture, seems entirely unproductive in the emphatic sense of the word. This philosophical soil has been turned and returned a countless number of times; the resultant conclusions, beginning from the same premises, leave other possible avenues, like the ones the later Nozick pursues, unexamined. Contrasted with the inflexible, ahistorical, apolitical character of the libertarian frame work, the later Nozick's theory demonstrates a dynamism, spontaneity, and openness that the libertarian theory cannot match. (By saying that the libertarian frame is apolitical I want to draw attention to the fact that political agency becomes confined *within* the boundaries of the night watchman state. Although political activity continues to occur within its confines, the framework itself remains dialectically lifeless.

terms is understood to exist, ontologically, as simply the sum of its atomistic parts, just as the self, is, as Hobbes and Hume following the logic of this position recognize, reducible to the sum of its atomistic percepts and desires. For the later Nozick, neither the self, nor the state, is reducible to the aggregate sum of its parts. By adopting this wholistic approach Nozick is able to avoid the either/or of social anarchy or its dialectical antithesis, totalitarianism. This theoretical re-orientation will have dramatic consequences for all of Nozick's later social and moral theorizing.

In making this conceptual turn, Nozick, however, appears to present two very different political philosophies, each possessing constitutive assumptions that would prevent us from taking the other seriously. In reconstructing the implicit discursive transitions Nozick makes, I believe we will construct a conceptually unified text, one governed by a single coherent logic. It is a text, however, that will prove ultimately to be "self devouring". It is a narrative in which the succession of discursive moves eventually leads to a reversal of the very premises with which it began. This is not to imply that our efforts are thereby rendered worthless. At the end of our 'archeological' project no longer will we be confronted by two mutually exclusive philosophical systems with nothing but subjective inclination to constrain our choice. Deriving directly from Nozick's attempts to address deficiencies successively unfolding within his original orientation, the final position he presents will prove to be much more warranted than his early work. Rather than one bare assertion, as Hegel would say, set over against another, what we have here is an evolution, following a determinate, internal logic in Nozick's thinking from a social atomism, and a Libertarian doctrine deducted thereupon, to an interpretive wholistic account of individual identity, and a theory of society that this newly theorized identity could be said, in the Kantian sense, to necessarily presuppose. This will lead Nozick in his later works to reverse the ontological priority Libertarianism had given to the abstract individual over against the nexus of relationships that the flesh and blood individual of history always necessarily already finds her or himself immersed in. Contrary to his early work then, these relationships are no longer seen as merely "accidental" or external in the sense that one's identity could remain essentially unchanged by them, simply contracting into or out of them as one chooses while remaining the same person throughout. Rather, these relationships are interpreted as being constitutive of one's identity. Radically reversing himself, the later Nozick suggests then, that it is society that

necessarily precedes the individual, providing those conditions which intelligible projects of self determination necessarily presuppose. The implication is that the existence of a shared linguistic game is the *conditio sine qua non* of intelligible self identity. We, in short, can come to know or define ourselves only through categories that are socially available. We recall it was only by virtue of Nozick's Libertarian assumption of the ontological priority of the individual over the state, that lead Nozick to believe in the rationally coercive character of his deduction of the "night watchman state"[3]. Nozick, in other words, is clearly committed to the thesis that the social relationships we find ourselves in, or rather contract into, are fully reducible to the sum of their further irreducible constituent parts - the self-sufficient individuals comprising them.

As for mapping out the project, I divide the thesis into three chapters. In the first I will look at the political philosophy Nozick presents in *Anarchy, State, and Utopia* (here after ASU). By situating Nozick's work within the social atomistic tradition from whose perspective he then wrote, I hope to identify the assumptions ASU uncritically accepts as a presumed necessary point of departure. After so doing, my strategy will be to present a plausible account of the limitations our narratively reconstructed Nozick could have isolated that would later lead him to doubt the interpretive sufficiency of the Libertarian paradigm. In chapter two I wish to examine Kant's contributions to Nozick's final position. Although Kant makes his presence known in Nozick's later writings through frequent though oblique references made to him, we never receive a sustained discussion of what in Kant's work recommended itself to Nozick and why Nozick felt it nevertheless necessary to move beyond him. In short, my aim will be to locate the concerns Kant's political theory first raises regarding the adequacy of the Libertarian model. In order not to detract from the narrative flow of our work here, becoming bogged down in the specifics of Kantian Philosophy, I will relegate some of this discussion to an appendix. Reviewing this appendix will enable us to test the critical adequacy of Nozick's conclusions against Kant's philosophy. In so doing, we will see, I believe, that the later Nozick is able to resolve tensions that Kant, in his attempts

[3] One should take note of the order of logical dependence: Being a Libertarian does *not* logically commit one to the thesis of the ontological priority of the individual over social relationships. Once one accepts this premise, however, one is compelled, as Nozick's deduction of the "Night watchman" state demonstrates, to accept the Libertarian doctrine.

to speak to the same issues as the later Nozick, was never able to free his philosophy from. I will attempt to show that although of obvious value in moving Nozick beyond a strict Libertarianism, Kant's position must remain only a half way point. Nozick will find, for reasons Hegel first articulates, the "Critical Philosophy" itself insufficiently critical. Demonstrating how Nozick's theory can resolve these tensions, irresolvable for the libertarian and Kantian alike, places Nozick's later work in a much more secure position. In showing that Nozick's work can account for phenomena that political philosophy is, as we shall see, obliged to explain - phenomena inexplicable on these other terms - we will have established the rational necessity motivating the later Nozick's theory. The later Nozick, having made the requisite discursive transitions will find that he now possesses the theoretical resources to account, unlike the libertarian or Kantian, for the constitution of individual and social identity, and the continuity of this identity through subsequent change. In explaining the conditions of the possibility of identity through change, Nozick avoids grounding his conclusions on conditions that his theory is unable to explain the possibility of. This is, as we shall see, the very standard that we, in furthering the critical tradition with the later Nozick, will use to convict both the Kantian and the libertarian. We must then judge ourselves by this same criterion.

In this discussion I hope also to demonstrate the unacknowledged debt Nozick owes to Hegel, to whom occasional gestures are also made. It is my belief that these gestures are intended to mark very definite discursive moves that Nozick has, so to speak, made behind the scenes. To miss these signals, however, is to fail to see the developmental thread that has led Nozick immanently from his earlier to later positions. In the final chapter, I will examine the theoretical stability of Nozick's conclusions. I believe that we will find that although we are in a much more critically warranted position now than we were when our narrative began, we will be unable to maintain the dialectical balance Nozick wishes to maintain between the openness necessary to allow for the possibility of meaningful political agency, and the interpretive closure demanded by the non-ideological use of his orienting metaphor, "organic unity". Nozick, for reasons I hope later to make clear, skirts this troubling issue. For Hegel, the sphere of the political has fulfilled itself. With the writing of the *Phenomenology*, Hegel asserts that all essential mediations have, at least implicitly, already taken place. I will argue that Hegel's philosophy (owing to

Onto-theological baggage inherited from Kant) becomes, against its own best intentions, convicted of the same crime it charged against Kant. It ends in reification[4]. If, as Hegel argues, the state conforms to the structure demanded by self-actualized Reason, then all subsequent forms of resistance necessarily become marked as intrinsically irrational. Political agency, understood in its broadest sense, is no longer the means through which universal history achieves its immanent, teleologically guided end. That end has for Hegel been realized, "the rational is actual", or rather it has, for Hegel, become so. As an ethical task, one must educate oneself to the level of "The Absolute". Having done so, one then ought, recognizing the implicit rational necessity imbedded in the pervading social and moral structures, find satisfaction within this order that reason itself has concretely realized. Although Nozick subscribes to Hegel's interpretive holism, and similarly views social change as occuring through dialectical opposition, he resists the necessary reduction of resistance to the category of the irrational. Indeed, in Nozick's chapter "The ZigZag of Politics" the suggestion is that the social meanings that structure our individual lives will be perpetually contested. This assertion, however, stands in a theoretically unstable relation with the view of society as exhibiting an organic unity - implying as it does infinite mediation. If, as I suggest, one must side for one side of the equation over the other, then Nozick's dialectical terminus is inherently unstable. Adopting what one might call a "left-wing Hegelian " position, I will attempt to justify Nozick's discomfort with the idea of totalitarian closure, and argue instead for the continued relevance of politics.

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[4] Although I wish to avoid stifling the resonance the term "Onto-theological" has, one can approach the meaning of this concept by considering the following: Kant in the first Critique defines the knowledge that God has of the world as "intellectual intuition" (35). For God there would no tension or 'distance' between a concept and its object. In fact, for God there would be no need for concepts at all. Each thing would be known in its absolute, irreplaceable, singularity. God has this (im)mediate knowledge, knows the object exhaustively, without distance, because God made the object. There could be nothing 'standing behind' his idea of the thing that escaped the immediacy of His (Kant's God is male) understanding as there is for us in the moment of conceptualization. Kant however, in discussing *a priori* knowledge argues that its possibility is grounded on the fact that we do, in some sense, make the world: "we can know *a priori* of things only what we ourselves put into them" (*Critique of Pure Reason* 23).The universal and necessary categories of experience structure the world in order that it meet the conditions of our possible experience. In this sense we know the world because we have to some extent made the world. Hegel as we shall see radicalizes this Kantian thesis. For Hegel, the "in itself" of the object becomes progressively reduced to our concepts, until the distance that Kant thought absolute is finally bridged. At this point, our knowledge, though lacking the immediacy of intuition Kant's God possesses would be identical in content. There would be the full 'self-presence' of the object. The interpretive disputes marking human history since 'the Fall' will have ended.

Chapter 1: Epistemic Atomism And Social Dispersion.

Our reconstructed "text", as noted, begins with *Anarchy, State And Utopia.* Nozick is explicit regarding this work's "central concern". Motivating the production is Nozick's desire to identify , if possible, the moral/ theoretical justification that could, in the face of criticisms raised by the anarchist, provide the state with a recognizable sphere of legitimacy. Given, however, the seriousness with which Nozick at this point believes one must take such objections, one cannot assume that such a warrant exists:

> Individuals have rights, and there are things no person or group may do to them (without violating their rights). So strong and far reaching are these rights that they raise the question of what, if anything, the state and its officials may do. How much room do individual rights leave for the state? The nature of the state, its legitimate functions and its justifications, *if any,* is the central concern of this book[.](A.S.U. i)

Against the anarchist, Nozick will find that the state, if strictly limited to the "night watchman" framework , does in fact possess its own legitimate *raison d'ètre.* Only this minimal "night watchman state" however can be shown to be morally and theoretically compatible with the right of the individual to free self determination. He concedes that the conclusions he reaches, specifically, that any state beyond one reduced to "the narrow functions"(A.S.U. i) of ensuring the fulfillment of contractual obligations and the protection of personal property would violate our right to individual autonomy, will strike many as being cold, self interested, and worst of all, counter intuitive. Many, Nozick asserts most, would have thought that some theoretical warrant could be found for politically inscribing our sense of social responsibility to the "needs and suffering of others"(i). Indeed, prior to the examination undertaken in A.S.U., Nozick would have numbered himself amongst them. He therefore cautions the reader against dismissing his libertarian conclusions simply because they challenge our social and moral intuitions. Nozick asserts, rather boldly, that one is not free simply set aside the conclusions of his work as one could those reached in "political tracts" (i.e. ideological constructs) (A.S.U xii). Unlike them, the conclusions his work reaches are ones that we, on pain of irrationality, are compelled to accept. Nozick argues that his treatise is a "philosophical exploration of issues...which arise and interconnect when we consider individual rights and the state"(A.S.U. xxii). The suggestion then, is that the libertarian conclusions reached are ones to which we are inexorably led through a series of rational deductions. The libertarian

position is unique in possessing this critical warrant - having derived valid conclusions from true premises. Thus Nozick himself, against his previous views was, "with reluctance" (i), forced to acknowledge the argumentative merit of the libertarian position.

As with his libertarian predecessor Locke, Nozick assumes as his basic constitutive premise, that seemingly irreducible political given, the atomistic, rationally self-interested, autonomous individual. As noted, the individual, so conceived, is simply the social correlate of this atomistic view. Once we accept the autonomous individual as the basic, irreducible unit of political meaning, we must acknowledge that there could, in principle, be no irreducible larger orders of meaning or identity, such as the state, whose value could override that of the individual. This truth is tautological. Thus one could never justify making an individual serve in the construction of such an entity against her/his will:

> Our starting point then, though nonpolitical, is by intention far from non-moral. Moral philosophy sets the background for, and boundaries of, political philosophy. What persons may and may not do through the apparatus of a state, or do to establish such an apparatus. The moral prohibitions it is permissible to enforce are the source of whatever legitimacy the state's fundamental coercive power has (A.S.U. 6).

Nozick believes at this point in our narrative that political philosophy necessarily presupposes this brute "fact" as its constitutive "root idea" (A.S.U. 33). Theoretical construction remains therefore, rationally and morally constrained through an acknowledgment of all that this presupposition can be shown to entail. From this presumably necessary point of departure, "the fact that there are different individuals with separate lives"(A.S.U. 33), we subsequently derive, with all the coercive force of a logical deduction, the principle of the absolute "inviolability of side constraints" (i.e. liberal rights). Having presupposed the validity of this first constitutive principle, thereby providing a foundation for a deduction of the inviolability of side constraints, Nozick sets out to construct the political framework of the minimal "night watchman state" through the same rationally coercive process.

In short, the task Nozick sets for himself in A.S.U. is to demonstrate that the minimal state alone can answer the anarchist's objections, that anything beyond its circumscribing boundaries would necessarily impinge upon the moral side constraints. Given the absolute priority, both morally and theoretically, of the constitutive root idea, and its correlate, the inviolability of side constraints, Nozick must establish a compatible position between this strong conception of individual rights and the coercive

powers that the liberal state possesses. Toward this end, Nozick provides us with a deduction of the minimal, night watchman state. Beginning with a theoretically postulated state of nature, which Nozick finds at this point to be an illuminating fiction, and an examination of the inconveniences of adjudication and moral insecurity we must suppose attend it, developing, through an "invisible-hand process" (A.S.U. 52), (i.e. the internal developmental logic of the situation), into private protection agencies as the means through which we, as rationally self interested agents, might best attempt to resolve these "inconveniences", the process eventuates, finally, in the political framework provided by the night watchman state. It is only at this point that the "problematic" that the state of nature presents the rationally self-interested agent is fully solved. In following this developmental logic Nozick demonstrates both how the minimal state *could have* arisen from the postulated "state of nature without anyone's rights being violated" (A.S.U. 114), and that the coercive power the minimal, night watchman state has come through this process to acquire represents no additional powers or privileges over against the freedoms of individuals. The authority possessed by the libertarian state, contrary to anarchist claims, does not then constitute a contradiction to the principle of the inviolability of moral side constraints (A.S.U. 52).

I have italicized the words, *could have,* above, to indicate , as Nozick points out, that it is not necessary for him to establish as an historical fact that the minimal state did come about in a manner that preserved, throughout its transitions, individual rights. The issue is purely logical. Can we get from the postulated state of nature, where one is fully autonomous, to the libertarian state, while not making any morally impermissible abridgments to individual rights? If each move can be legitimately made, the anarchist's objections are answered. However, should one of the *necessary* transitions violate the side constraints, the end itself, as implicitly presupposing this abridgment, would have to be condemned. In other words one could not, without doing evil, get from here, the state of nature, to there, the liberal state. Nozick however believes that the deduction he has provided can answer any objection the anarchist might put forward:

> We have discharged our task of explaining how a state would arise from a state of nature without anyone's rights being violated. The moral objections of the individualist anarchist to the minimal state are over come. It is not an unjust imposition of a monopoly; the *de facto* monopoly grows by an invisible-hand process and *morally permissible means,* without anyone's rights being violated and without any claims being made to a special right that others do not possess (A.S.U. 115).

Nozick reaches the libertarian state by means of the concept of "Protective Associations" (A.S.U. 12). Utilizing this discursive resource, Nozick takes us, through a series of morally permissible steps, from the postulated "state of nature" and the voluntary formation of individual private protection agencies, through to the development, by means of an "invisible-hand" process (A.S.U. 18), of a "dominant protective association" (A.S.U. 113). This association, it turns out, will end up satisfying the two requisite conditions for being a state, possessing a "monopoly over the use of force" and providing protection for the rights of all those within its territory. The dominant protective association would, by satisfying these necessary conditions, be a *de facto* state; one limited however to the night watchman functions. To satisfy the anarchist Nozick must demonstrate that these two defining features of a state can come to be legitimately possessed by a dominant protective association. Stated otherwise, Nozick must show that the concept of a dominant protection agency is not itself in contradiction with the moral side constraints. As we shall see, this is not an easy matter to establish: First, by arrogating to itself the exclusive authority to determine when, if, and by whom, coercive force is to be used, the dominant protection agency appears to violate the right of the individual to punish those who have violated his/her rights. Second, the protection agency also requires that its associated costs be paid by those individuals able to afford its services on behalf of those who cannot. This appears to imply some principle of "redistribution" of wealth (A.S.U. 167). Redistribute taxation, however, entails the taking money, or resources, from one individual, whose property it is, and giving it, without color of right, to someone else. This then violates the right of the individual to the use and disposition of his/her own property. Under Nozick's "Entitlement Theory" (A.S.U. 150), a theory that simply plays out the implications of atomistic rights, one is entitled to the unencumbered, inalienable right to one's holdings, i.e. property, if its first possession, or "original acquisition" (A.S.U. 150) was made through just means, i.e. representing the 'fruit of ones own labor', or if the property was subsequently transferred to one through a means that was itself just (i.e. earned or freely given to one by its legitimate possessor). Property acquired through any other means, such as redistributive taxation, would then violate this principle of entitlement and therefore be unjust.

Beginning then from a theoretically postulated state of nature, Nozick attempts then to show how

the dominant protective association can legitimately come to possess these two otherwise contentious characteristics[5]. Unlike Hobbes, Nozick does not wish to tip the scales in his, the libertarian's, favor by assuming that this state of nature is so terrible that any state would be preferable to it. For those unwilling to accept this view of the state of nature, the conclusions reached from any subsequent theorizing would not prove compelling. A person always could, against Hobbes, continue to favor the state of nature. It is for this reason that Nozick begins by assuming "the best anarchic situation one could reasonably hope for" (A.S.U. 5). By demonstrating to the committed anarchist, the theory's hard case, that the minimal state, will arise through an internal logic of its own, i.e. an invisible-hand process - as individuals each acting separately to respond in the most rational manner possible to the attendant defects and insecurities of this best conceivable natural state - one has demonstrated to all others that the libertarian state is, at all times, preferable to the state of nature (A.S.U. 5).

From this state of nature, wherein one is radically individuated, we move, through a morally permissible step, to associations of mutual-protection. In the state of nature one could not help but see the benefit in forming associations of mutual-protection with other individuals. The wisdom contained in the principle of 'strength in numbers' will be apparent to all (A.S.U. 12). Indeed, when one sees others entering into such agreements, one cannot but see the danger in remaining on one's own. If all were honest, and could be trusted to act as impartial adjudicators of their own actions, accepting punishment

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[5] As noted, it is only because Nozick begins with an atomistic conception of identity that the state of nature allegory becomes a theoretically useful fiction. We will of course have occasion to call this assumption into question later. Nozick believes that the political realm is ontologically reducible to the abstract individual. Showing how the state *could* arise through a process in which at each developmental stage, the rights of this individual were preserved would constitute a "Fundamental explanation" (A.S.U. 19) of its existence; an explanation that could not, in short, be analytically reduced any further. This explanation, as historically improbable, would then have as its most important function the task of legitimization:
"Fundamental explanations of a realm are explanations of the realm in other terms; they make no use of any of the notions of the realm. Only via such explanations can we explain and hence understand everything about a realm; the less our explanations use notions constituting what is to be explained, the more (*ceteris paribus*) we understand" (A.S.U. 19). We should note the normative aspect implied in this venture. The night watchman framework would represent the libertarian analogue to the 'blue print' that Plato provides in *The Republic*. To the extent that any, or indeed all states are found to differ to some degree or other from its design, to that extent are they illegitimate: "State-of-nature explanations of the political realm *are* fundamental potential explanations of this realm and pack explanatory punch and illumination, even if incorrect. We learn much by seeing how the state could have arisen, even if it didn't arise that way. If it didn't arise that way, we learn much by determining why it didn't; by trying to explain why the particular bit of the real world that diverges from the state-of-nature model is as it is" (A.S.U. 9).

when deserving, there would be no reason to renounce one's radical autonomy. On any realistic view of the world however, we would expect the less honest amongst us to take advantage of our numerical vulnerability. The move toward the formation of such associations is not then guided by any conscious intention on the part of certain individuals, against the wishes of others, to form a state-like entity; rather, in keeping with our invisible-hand explanation, there is a logic internal to the situation that inclines each individual, of his/her own free volition, toward joining this kind an association.

Further sources of tension arise for individuals once within these associations, tensions which are not accidental, but endemic to the situation. In the process of resolving these tensions, behind our backs as it were, the protective association will come to take on the form of the minimal, night watchman state. Once a participating member of a mutual-protective association one becomes, in effect, part of an always standing army or police force. At any time one could be drawn away from one's private interests to come to the aid of another member; perhaps a person given over to the delights of creating unnecessary conflict. This then could place substantial strain on one's time. Through the principle of the division of labor, some persons will be hired to provide protective services. This will then frees others from performing such duty, allowing them to devote their energy and attention elsewhere. We thus see the commodification of protection. It is then simply a service, like any other, that one can purchase on the open market from competing police-like agencies (A.S.U. 24). Perhaps most significant amongst these inconveniences however, is the occurrence, sure to arise at some point, of conflicts amongst members of the same association. Nozick, within this discursive game, is correct in arguing that the association could not simply remain a neutral observer of such disputes. To do so would leave those who are victimized, or believe themselves to have been, no other option than to form "subgroups" (A.S.U. 13) to protect themselves and exact whatever compensation they feel is warranted. This dynamic - the formation of ever further subdividing subgroups, competing and struggling with each other - would eventually lead to a complete fracturing or dissolution of the association as a whole (A.S.U. 13). Further, if protective associations maintain noninterventionist policies with respect to their own members then all the "potential aggressor" amongst us need do to establish a *de facto* immunity from his/her crimes is to become a member of all the available protective agencies prior to commencing his/her career of criminality (A.S.U.

13). A vigilantism, uncontrolled by any system of checks - retribution for punishments believed by the perpetrator to have been excessive, and counter retributive measures in response - will begin a cycle of violence that will spin out of control.

The protective agency thus becomes compelled to establish some sort of judicial procedure to impartially resolve conflict amongst its members. Of course, as Nozick points out, no one, other than those who would unfairly benefit from it, would become a member of a protection agency that decided internal disputes in a completely arbitrary fashion. Costly conflict will also be avoided between competing agencies if such arbitration is extended to conflicts between members and non-clients. One's protective agency will not wish to expend the resources sheltering one from the punishment it believes one deserves. If it did, many of its members could be inclined to commit crimes against non-members. Protecting a band of criminals could lead other agencies to attack it; leaving its honest members in a position of vulnerability. Additionally, and significantly, clients of an agency are going to demand assurances that they will not be subjected to the arbitrary determinations of right by an other agency, or an individual acting on his/her own behalf. For a protection agency to allow those persons unaffiliated with any established agency, "independents", whose methods of adjudication have not been publicly scrutinized, to enforce their own rights against its clients would be to place their clients in a dangerous position. A client may receive serious loss to person or property as a result of an independent's excessive retaliation (A.S.U. 55). Such a loss may not be of the sort for which adequate compensation exists. Thus a protection agency will undertake a policy of punishing those persons who attempt to enforce their own conception of justice against its clients. For the independent to act as his/her own enforcer without fear of a retaliatory strike, it must first establish to the satisfaction of the clients agency that the procedures it uses are sufficiently reliable (A.S.U. 110). Unlike larger, recognized agencies however, it becomes problematic for the protective agency to make this kind of determination in the case of each and every independent. Indeed, in the case of individual enforcers, we would not expect them to have any distanced, unbiased method; or, if they did, they might, if angry enough, 'forget themselves' in the heat of passion. As a general principle then, clients will demand that their agencies protect them from independent enforcers.

From the perspective of those affiliated with a protection agency this seems a reasonable step to

take; however, from the independent's side, this monopoly on the use of force cannot be read as anything other than a violation of their right to act as their own enforcer. Assuming the role of the anarchist, Nozick points out that it is possible that an independent may act without ever violating anyone's right to non-arbitrary judicial procedure. Without such evidence, the agency would have no right to interfere with this person's self-enforcement. To prevent the independent from acting on his/her own behalf without evidence suggesting that their procedure, if they in fact have one, is unjust, constitutes a violation of this person's autonomy. Yet, as we have seen, the protection agency cannot simply wait until its client has suffered an injustice at the hands of an independent. It is at this point that Nozick introduces the "principle of compensation" (A.S.U. 110). By denying individuals the right to self-enforcement, the protection agency places the independent in an extremely vulnerable position. They no longer can effectively deter those who would 'trespass against them'. The protection agency has then violated the independent's rights, and has damaged this person's situation *vis a vis* those within a protective agency. The principle of compensation demands that a person suffering as the result of a violation of their rights be compensated to the extent of the loss incurred. As Nozick's discussion makes clear, anything short of sufficient money to pay for the services of a protection agency would be inadequate compensation for those who now find themselves unable to enforce their rights. The most expedient means of compensation turns out to be simply paying for coverage to be extended to these persons.

Whether we decide to pay them out or provide them with our agency's services, the logic of the competitive free enterprise system will eventually lead to a single, dominant protective agency, possessing a monopoly on the use of coercive force within a given geographical area (A.S.U. 17). As Nozick points out, the value of the services one acquires from a protective agency depends upon its relative strength. It must be able to secure one from being victimized by members of other agencies, or by these agencies themselves. Everyone will thus seek to employ the strongest agency. Until one agency possess a monopoly on the use of force, clashes amongst them will continue to arise. Once one agency begins to show a slight lead against its competitors however, the others will become caught in a "declining spiral" (A.S.U. 17). Everyone will transfer their patronage to the most powerful agency. This will of course continue to improve the lead of the now dominant agency's relative position, distancing it ever further from its

competitors. This process must then eventuate in the complete dominance of one particular agency. The others are simply driven out of business.

Taking stock of where we now are, Nozick finds we are, for all practical purposes, within the night watchman framework. The dominant protective agency will have well-established judicial procedures in place, one's which it and its clients deem sufficiently "reliable and fair" (A.S.U. 108). Thus not only will it not allow other agents to punish its clients, it will not allow its clients, or anyone else, to defend against its judgements. Further, by virtue of being the dominant protection agency, it has come to be the only protection agency around, and thus represents the sole locus of coercive force. It has not, as Nozick points out, come to possess this unique status through any illegitimate monopolization of power as the anarchist charges; rather, as we have seen, it derives this special status through a process of fair competition. Thus it does not claim any special rights or privileges against others; rather the right it exercises as the sole enforcer and determiner of right, is simply the expression of the unique position it has legitimately come to assume. Nozick has then demonstrated that the monopoly of power the dominant protective agency has come to possess is not incompatible with individual rights; or, rather, to the extent that is, it has fully compensated the individual. Finally, as we have also seen, the extension of protection services to those unable to afford them is not based upon any redistributive principle, illicit on individualist terms, but upon the principle of compensation (A.S.U. 114). Thus Nozick has demonstrated that the dominant protection agency, possessing the necessary and sufficient conditions for being a state, is also compatible with individual rights. The dominant agency is a *de facto* state, and has been constructed through a series of legitimate moves.

Although Nozick has established a sphere of legitimacy for the state, we find that it has been purchased at the cost of any right to direct, as a community, our institutional and political lives toward resolving such social problems as the often tragic disparity in material well-being that exists between individuals: "The Minimal state is the most extensive state that can be justified. Any state more extensive violates people's rights" (A.S.U 149). Nozick has quite self-consciously, through his deduction of the moral/political priority of side constraints, established a position of incompatibility with respect to any more "robust" (A.S.U. 276) conception of the state. As Nozick points out, and as the above discussion

demonstrates, there could be no way in which an "asymmetry in rights" (A.S.U. 276) between the individual and a state, grounded in libertarian presuppositions, could legitimately arise. The state's authority resides solely in the power individuals have placed in its hands to act as the guarantor of their rights. The state therefore has no supererogatory power it can draw upon to effect such aims as the redistribution of material wealth[6]. Simply stated, the sum of the state's power is the equivalent of its constituent parts: "The *rights* possessed by the state are already possessed by each individual in a state of nature...the state has no special rights (A.S.U 118). Political frameworks which seek actively to direct individuals toward an "end-state maximizing" (A.S.U. 33), imposing upon diverse individuals, each, as we are told, with their own peculiar interests and self chosen ends, a supervening, unifying program or "patterned conception of justice" (A.S.U. 173), must be condemned both morally, for failing to respect the side constraints, and theoretically, for not recognizing this as the theoretically foundational principle it

[6] Although I will not pursue the matter further, one should note the explosive implications that the libertarian principle of "Entitlement" (A.S.U. 150) has for the theoretical manageability and subsequent value of the framework. It follows from the libertarian position that one's right to exclude others from one's property can be valid only if one has justly acquired it, either through one's own labor, or through a process, however lengthy, of legitimate transfer. If the original possession of this wealth was itself legitimate, and each in the series of succeeding transfers is as well, the property becomes the inalienable right of its current possessor. Wealth however, acquired through illegitimate means, principally, theft, fraud or slavery, constitute violations to this principle. This will mean, as our discussion of transfer suggests, that 'fruit gathered from the poisonous tree', the material wealth, though perhaps legitimately transferred, but originally acquired illegitimately, is subject to forfeiture. Because of the illegitimate alienation of wealth some individuals will have missed out on opportunities for social advancement that such wealth would have afforded them. This raises, as Nozick points out, the question of "the rectification of injustice in holdings" (A.S.U. 152). Given that the material well-being of the western world has been purchased at the cost of the rights of those in the third world through colonialism, of black Americans through slavery, of native north Americans through the illegitimate possession of their land, this principle, rectification, if applied, would undermine beyond recognition our current property relations. How could we begin to compensate black north Americans, natives, and the third world for the strategic damage they have suffered from violations to their libertarian property rights, effects that will continue for many generations making themselves felt? The issue of reparation would become so complex and contentious, succeeding groups each accusing the other of violation to their legitimate, first possession. This litigious process would divide and re-divide the world hundreds of times over. In libertarian terms, viewing the individual agent as the locus of social meaning, we would have to examine how each particular individual was adversely effected, finding themselves, perhaps many generations removed from the 'scene of the original crime', in a much poorer socioeconomic position than they otherwise would be. How could we even begin to determine this? And for those of us, white Anglo-Saxon males predominately, who benefited from these illegitimate holdings, assuming at birth positions of relative social privilege, we must ask how much of the father's sins will be visited upon the son. The principle of rectification, and indeed the question of legitimate property, would make the libertarian framework practically useless. If its principles are, in principle, unmanageable, requiring, either social anarchy if adhered to, or , in its own terms, supporting malefactors in their illegitimate holdings, then we must abandon libertarianism as an impossible program.

implicitly is. However well intentioned, the perfectionist state, through its externally imposed moral teleology, must be condemned for using the particular individual, a being with its own *internally posited* ends, as a mere means[7]. Over and against the ends that individuals have posited for themselves, the state simply imposes its own blanketing moral teleology. It is in this context that the Kantian duty to always respect the person as an end in himself is explicitly appealed to:

> Side constraints upon action reflect the underlying Kantian principle that individuals are ends and not merely means; they may not be sacrificed or used for the achieving of other ends without their consent. Individuals are inviolable (A.S.U. 31).

It is, Nozick argues, only by virtue of an absolute adherence to the principled priority of side constraints that society is prevented from sacrificing the private ends of the individual to its conception of the greater good. Such a conception, once posited, will inevitably exert a teleological pull toward achieving its own realization. It is not therefore sufficient for the state to have moral side constraints embedded in its framework at some other theoretically specified location, thereby satisfying its obligation to respect the rights of the individual, while still allowing it to further its social aims (A.S.U. 29). Unless the root idea holds a position of primacy, the teleological imperative to satisfy the social end will inevitably drown out the right of individuals to be self-determining. Thus Nozick concludes:

> No rights exist in conflict with this substructure of particular rights. Since no neatly contoured right to achieve a goal will avoid incompatibility with this substructure, no such rights exist. The particular rights over things fill the space of rights, leaving no room for general rights to be in a certain material condition (A.S.U. 238).

Although we often, within our own individual lives, willingly "undergo pain or some sacrifice for a greater benefit, we do so relative to our own self chosen agendas, our own over all good" (A.S.U. 32). In this instance we have a clearly identifiable, autonomous entity making its own choices as to which sacrifices it will be necessary make if it wishes to achieve the ends it has itself posited. The individual thus decides, on the basis of his or her own interests, which sacrifices are worth what costs. Society, as an

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[7] As we shall have occasion to note, this issue, theoretically isolated by Hegel in the concept of "externality", is a theme that forms a developmental thread, linking together, through a series of discursive transitions, the works of Locke, to whom the Nozick of A.S.U is most closely identified ideologically, through to Kant, and from him, to Hegel and the later Nozick. Each will attempt to theorize the problematic in a more critically warranted fashion.

aggregate of such rationally self-interested individuals, acknowledging the force of our root idea, cannot similarly be viewed as an entity "with a good that undergoes some sacrifice" (A.S.U. 32). End-state maximizing, intuitively desirable as it may seem, must then be condemned as the external or dictatorial imposition of a unifying form upon an alien, often resistant content. This attempt to unify the ends, and thus the "existence of distinct individuals", through a perfectionist agenda is nothing less than totalitarian:

> The stronger the force of an end-state maximizing view, the more powerful must be the root idea capable of resisting it that underlies the existence of moral side constraints. Hence the more seriously must be taken the existence of distinct individuals who are not resources for others. An underlying notion sufficiently powerful to support moral side constraints against the powerful intuitive force of the end-state maximizing view will suffice to derive a libertarian constraint on aggression against another (A.S.U. 33).

Nozick, as promised, in deriving the libertarian-state in the manner sketched above, appears to have left us no alternative to accepting his libertarian conclusions. Quite literally, he has demonstrated that the justification for the minimal state, and the inviolability of its side constraints, explicitly draining more "robust" political frameworks of their legitimacy, is analytically embedded within the root idea. There is nothing in his conclusions that we cannot derive from our constitutive premise. Early on in A.S.U. Nozick signals the "promising" deductive process he will following:

> Thus we have a promising sketch of an argument from moral form to moral content: the form of morality includes F (moral side constraints); the best explanation of morality's being F is *p* (a strong statement of the distinctness of individuals),and from *p* follows a particular moral content, namely, the libertarian constraint. The particular moral content gotten by this argument, which focuses upon the fact that there are distinct individuals each with his *own* life to lead, will not be the *full* libertarian constraint. It will prohibit sacrificing one person to benefit another. Further steps would be needed to reach a prohibition on paternalistic aggression: using or threatening force for the benefit of the person against whom it is wielded. For this, one must focus upon the fact that there are distinct individuals, each with his own life *to lead.* (A.S.U. 34).

How then is it that Nozick in his later writings can, in obvious contradiction to the position of incompatibility he has left us with, find it theoretically responsible to view the state on analogy to an organism? Utilizing the metaphor of "organic unity" (*The Examined Life* 92) clearly implies that the state must, in some sense, be interpreted as an internally related entity. The aggregate view of the state has clearly been replaced. For the later Nozick, the libertarian conception of identity, assuming, in turn, that the sum of the state's reality is simply equal to its constituent parts, will prove to be entirely

"reductionist"(*Philosophical Explanations* 628).Thus the allegory of state of nature must be rejected as being altogether too abstract an idea even to serve as a useful theoretical fiction. Consistent with Nozick's "gestalt switch", for instance, is the belief that the state may legitimately intervene within the lives of individuals and their disposal of personal property. He no longer feels constrained to *necessarily* view such end state maximizing as the naked exploitation of some individuals for the sake of certain others. He now argues that a community can, and indeed sometimes ought, to undertake, even against the wishes of some of its members, projects consistent with, and necessary to fulfill, its shared sense of identity. As we have seen, however, the early Nozick clearly believes that if one begins political philosophy with the libertarian root idea one inexorably ends, as the series of brilliant deductions Nozick has made for us demonstrates, with the minimal state. To resist the coerciveness of the libertarian deduction, and move to an understanding of the state as constituting a larger identity, a "we" that is ontologically more than a mere accidental aggregate of individuals, one must find a theoretically responsible way of rejecting its first principle. This is, I hope to show, the approach Nozick himself has implicitly taken. From what has been said, it is clear one cannot get to where Nozick now is beginning with the libertarian's root idea.

As we shall see, the early Nozick's work is necessarily implicated, through its inherited Lockian moral theory, in this social atomistic tradition. Only because it falls within this tradition can the root idea appear as a brute constitutive given. Surprisingly, given that the entire weight of the libertarian framework must rest upon it, Nozick does not examine the theoretical stability of the root idea. Satisfied with the principle's Lockian parentage, Nozick simply assumes its value (which for the libertarian is absolute):

> In advance, it is possible to voice some general theoretical worries. This book does not present a precise theory of the moral basis of individual rights...Much of what I say rests upon or uses general features that I believe such theories would have were they worked out. I would like to write on these topics in the future. If I do, no doubt the resulting theory will differ from what I now expect it to be, and this would require some modifications in the superstructure erected here (A.S.U. xiv).

Or Again:

> The completely accurate statement of the moral background, including the precise statement of the moral theory and its underlying basis, would require a full-scale presentation and is a task for another time ...That task is so crucial, the gap left without its accomplishment so yawning, that it is only a minor comfort to note that we here are following the respectable tradition of Locke, who does not provide anything remotely resembling a satisfactory explanation of the status and basis of the law of nature in his *Second Treatise* (A.S.U. 9)

What is interesting to note is that Nozick simply assumes here that this critical inquiry could result in nothing more radical than some slight "modifications in the superstructure". The only reason this theoretical "gap" is at all problematic for Nozick is because it disrupts the *absolute* coerciveness of his deduction. If the conclusions he reaches regarding the night watchman state are not built from the ground up, establishing valid conclusions drawn from true premises, then his libertarian conclusions are rationally coercive only to the extent that its first principle, or "root idea", is assumed sufficiently obvious that all parties will concede to its validity. Nevertheless, the goal of complete deductive certainty cannot be met until this gap is filled in. The idea that the radical independence of the subject could be called into question however, along with correlative notions of self-sufficiency and individual autonomy, is never seriously entertained. If it were, we would not have had an entire treatise grounded upon its presumed validity. Nozick would, in short, have begun at the beginning, first demonstrating, if possible, the rational necessity of accepting political philosophy's constitutive first principle, then, after theoretically securing the libertarian moral background from doubt, undertaking the deduction A.S.U. has given us.

Some understanding, however, should be given to Nozick's critical lapse. The self-evidence the atomistic conception of selfhood has within our religious and philosophical traditions is not easily challenged. Both assume the existence of a relationless "soul-pellet" (*Philosophical Explanations* 60). John Dewey speaks to this ideological equivalence in the following:

> We fail to note that so-called laissez-faire individualism, with its extreme separatism and isolation of human beings from one another, is in fact a secularized version of the doctrine of a supernatural soul which has intrinsic connection only with God (*Human Nature and Conduct* 31)

As we shall see however, critical inquiry into the identity of the subject will require a radical re-conceptualization, both of the libertarian root idea, and the atomistic epistemology from which this first principle is deduced. The libertarian side constraints are grounded in a conception of identity based upon what Nozick has called the "Intrinsic Abstract structuring concept" (*Philosophical explanations* 47), or in my terms, a conception of identity rooted in an atomistic epistemology. The later Nozick cleverly suggests as much in the following:

In *Anarchy, State, and Utopia,* I presented a political philosophy based upon a certain view of the content

of rights but did not (as I said there) present any moral foundations for that view. One might attempt such a foundation either by working back from the view, step by step, or by starting at the very foundations of moral philosophy and working forward. If this later course, pursued without too much glancing ahead, does succeed in linking up with the specified rights, then it will provide them with independent support. *There also is the risk, however, that this forward motion from the foundations will lead to a completely different view , as the construction of a transcontinental railroad starting from both coasts could fail to link up, leading to two full railroad lines (Philosophical Explanations 499 italics added).*

It is this forward development that I now wish to follow. As noted in the introduction, it is not simply that the two lines, represented respectively by the early and later Nozick, fail to meet. This would imply two separate, but equally valid, philosophical systems. What shall emerge as we follow the discursive transitions, or logical moves the libertarian tradition is compelled to make in order to respond to its own theoretical inadequacies is the complete epistemic reversal from epistemic atomism to interpretive holism.[8] Toward realizing this end, I would like to situate the early Nozick's work within the epistemic tradition from which it has emerged.

The Epistemic Foundations of Libertarianism

This tradition, the modern, relying on the "intrinsic abstract structuring concept" (*Philosophical Explanations* 47), is a vision of the world that identifies the isolated atom as the basic constituent unit of truth. As the following definition of Nozick's suggests, it is upon this epistemology or structuring concept that the validity of the abstract, self-identical, individual must finally rest:

A concept C's holding at a time is analyzed in terms of an abstract structural description involving only monadic predicates holding at that time. The personal identity of something is an intrinsic feature of it, most usefully discussed without considering any entities other than it or any of its features at any other time. (For example, the identity resides in the soul.) (*Philosophical Explanations* 48).

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[8] One might attempt to argue, against my reading, that the lines do in fact meet, the location of conjunction residing in the apparent priority Nozick gives in his later works to "the ethic of respect". As we shall see, this ethic seems to reinstate the principled priority of the libertarian side constraints. Although I will reserve the right to examine this objection in greater detail later, I would like to point out at this point, in hopes of shifting the burden of proof to the opposition, that in Libertarian terms, the state is never free to undertake the redistribution of wealth to alleviate material disparity. Regardless of the differential in material well-being, the state can take wealth away from the individual only in instances where it can be established to a moral certainty that the wealth was acquired through illegitimate means. For the state to presume otherwise, would be a failure on its part, in Nozick's later terms, to 'respect' the individual. Such action on the part of the state could only be read as the naked "exploitation" of some for the sake of others (A.S.U. 232). In Nozick's later works this restriction on social intervention is no longer inviolable, and does not necessarily, though it could, constitute disrespect.

It is important to note then, that the radically autonomous individual who remains substantially the same throughout the many and varied relationships s/he contracts into, and upon whose validity the theoretical import of the state of nature allegory necessarily depends, represents the political correlate of this atomistic world view. It is the validity of this world-view, or ordering concept, that the libertarian Nozick simply accepts[9]. By examining the works of Hobbes and Locke, the progenitors of Nozick's libertarianism, we can situate *Anarchy State and Utopia* within a particular discursive tradition. In so doing, we will gain, it is hoped, a better understanding of the theoretical limitations of this position. Understanding A.S.U. in terms of this broader tradition - whose constitutive premises have not been fully examined - will allow us to avoid the semblance of self-evidence the libertarian's first principles have for the Nozick of A.S.U.. Unlike the early Nozick then, we will take the Kantian-like critical/reflexive glance back. The early Nozick, in short, in appropriating the Lockian moral framework, begins with the assumed self-evidence of a certain constitutive principle, specifically, the radical autonomy and ontological self-sufficiency of the isolated individual. He does not recognize that this principle is the product of a particular discursive history, one whose validity can be questioned. In fact, the later Nozick's work is usefully viewed as the product of a critical questioning of received assumptions. Implied in my approach, then, is an argument that the later Nozick, specifically in the development of the "Closest Continuer Theory" of identity, belongs in the tradition of those who have carried, like Hegel and Adorno, Kant's critical impulse forward. Along with the later Nozick, we will see that the discursive limits of libertarianism are not equally the limits of philosophy. Libertarianism will be found unable to theorize, in any but the most abstract of ways, the identity, through change, of the individual and society.

Both Charles Taylor (*Hegel* 4) and John Dewey (*Human Nature and Conduct* 155) have traced the genesis of this modern world-view to the epistemological and scientific revolutions occuring during the seventeenth century. Each project confirms itself and gains credibility through the achievements of the other. The validity of this world-view is established through its unprecedented efficacy, not merely in

[9] In chapter two, in the context of developing Nozick's "Closest Continuer Theory", we shall have cause to examine this structuring concept at length. It is to the limitations of the Intrinsic Abstract structuring concept that Nozick's new theory of identity is intended to respond.

accounting for change, as other views could do equally well, but, much more significantly, in its ever refined ability to predict and control change (*Hegel* 7). The Aristotelian vision of the universe which saw an infinite, though for subjectivity external, meaning in motion, gave way to one which saw merely contingent correlations existing between atomistic elements dispersed into a boundless infinity. Once subjectivity discovered that it could, simply by manipulating variables independently of one another, control processes of causal interaction, produce such changes as would conduce to ends it has itself posited, it no longer felt constrained to submit to a *de facto* order of being, valid beyond its particular aims. The concept of external teleology thus loses all purchase. Charles Taylor speaks of this moment as the "emancipation from meaning"(*Hegel* 8). It is this freedom that subjectivity now claims from meanings to which it must submit that Kant's concept of rational autonomy speaks in the strongest possible terms[10]. John Dewey speaks to the servitude that subjectivity, through this epistemic turn, has freed itself from:

> When men believed that fixed ends existed for all normal changes in nature, the conception of similar ends for men was but a special case of a general belief. If the changes in a tree from acorn to full-grown oak were regulated by an end which was somehow immanent or potential in all the less perfect forms, and if change was simply the effort to realize a perfect or complete form, then the acceptance of a like view for human conduct was consonant with the rest of what passed for science. Such a view, consistent and systematic, was foisted by Aristotle upon Western culture and endured for two thousand years. (*Human Nature and Conduct* 154)

Subjectivity, in forcing nature to serve its ends, affirms for itself a new and higher dignity. The natural world can no longer be seen as exhibiting immanent purpose or intrinsic value. Human subjectivity, as that which lends direction and purpose, both to itself, in positing its own ends, and to nature, constraining it to serve these ends, is now the locus of such value. As Kant formulates it, each human being, as a being capable of positing its own ends, can never be used as a means for some further, purportedly higher end existing outside it, but must be respected always as an end in itself. As Hegel will restate this equation,

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[10] Kant, as we shall have occasion to see, by postulating the existence of God, returns, unhappily, to an external teleology. Although the concept of God, as posited by reason, is meant to be fully responsible to its demands, answerable to its intrinsic interests, reason cannot ultimately control the concept once posited. God, by Kantian description, would have to have a real existence independent of human cognition. Thus although we could attempt to understand God only within the finite categories of our understanding. God would remain, as a "thing in itself" *par excellence*, external to the control of reason's categories. God, like the Platonic forms, would therefore be external in this radical sense. This then mitigates against the presumed autonomy of the rational subect.

human beings are valuable in themselves because they alone, in positing ends, are for themselves.

As I have suggested above, this atomistic world view, the interpretive correlate of the "intrinsic abstract structuring concept", radically influences the self understanding of individuals and their relation to each other within society. Under atomistic premises, society cannot intelligibly be viewed as an organic unity. Society must be reinterpreted as the limited aggregation of rationally self-interested individuals. The state is simply an external or artificial unity. Although Nozick differs from Locke and Hobbes in arguing that the state is best interpreted as arising through a "invisible-hand process" rather than being formed through a contractual agreement one only ever implicitly consents to, the reasons the parties give for remaining within its constraining boundaries are the same. Once, as Taylor notes, the "emancipation of meaning" was achieved, each becomes free in the state of nature to define his/her own private ends. The law of nature simply commands one to permit others the freedom to do likewise.[11]:

> Individuals in Locke's state of nature are "in a state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, within the bounds of the law of nature, without asking leave or dependency upon the will of any other man" (sect. 4). The bounds of the law of nature require that "no one ought to harm another in his life, health, liberty, or possessions" (sec. 6). (A.S.U. 10).

Although fully autonomous in the state of nature, one is however in a place of radical insecurity. Entirely absent is the coercive force of law to restrict others in pursuing their own personal ends, ends which might threaten the life or property of oneself. Thus purely out of self-interest one "enters", i.e. remains within, the confining boundaries delimited by the state's laws:

> [F]or being now in a new state, wherein he is to enjoy many conveniences, from labor, assistance, and society of others in the same community, as well as protection from its whole strength; he is to part also with as much of his natural liberty, in providing for himself, as the good, prosperity, and safety of the society shall require; which is not only necessary, but just, since the other members of the society do the like (*Second Treatise of Government* 67).

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[11] In so far as Locke speaks of the existence of a "law of nature", a principle of action not grounded in the human subject but existing as a constraint upon his/her actions, he will be convicted by the Kantian Philosophy of retaining vestiges of unwarranted externality. Like Hume after him, Hobbes sees through the inconsistency of attempts to inscribe laws upon the heavens to which reason must respond once the emancipation from meaning is complete. This results in the reduction of right or good to the autonomous individual, whose contingent appetite, not Platonic forms, provides the only standard. In Kant's project we see the attempt to retain a universally necessary, regulative moral order. Unlike Locke, this law remains fully situated within the autonomous subject. The early Nozick, in simply "following the respectable tradition of Locke" (A.S.U. 9) never questions the critical warrant of assuming Locke's law of nature

Not bound internally to others through relationships intrinsic to one's identity, the individual is, as Hobbes has noted, radically separated from all others by appetites, desires, and drives peculiarly his/her own. One's fellow citizens become seen as competitors for the finite amount of socially available resources. It is for this reason that the early Nozick's discussion of the possibility of "contracting into particular limitations" (A.S.U. 14) on one's own freedom rings hollow. He attempts, through the construction of "voluntary" interest groups, to unite like minded individuals in common cause to assist in the alleviation of the "needs and suffering of others" (A.S.U. i). Apart from the fact that poverty in libertarian terms is read as punishment for being unmotivated, thus inclining society to blame its victims, material wealth must, as Hobbes points out, be understood as a strategic weapon. The resources of society, and in Nozick's state, those necessary even for basic subsistence, will go to those who can best afford them. Given that the desired and perhaps desperately necessary goods go to the highest bidder, one would be foolish to place oneself in a position of vulnerability by giving away resources one may need to draw upon later. In a contingent world, one must insulate oneself, by amassing as much wealth as possible, from the threat of poverty. Although, as Hobbes points out, it might often be a good strategy *to be seen* as charitable, placing those whom one assists in a position of obligation and control. One does not however want to be so to the expense of one's strategic interests. Seeing oneself as radically autonomous, pursuing goods in competition with others, one cannot but see that there is a logic in place working against our desires to elevate the estate of others. It is for this reason that Hobbes argues that mankind possess as "a generall inclination...a perpetuall and restless desire of power after power, that ceaseth only in Death"(*Leviathan* 70). Once the radically isolated individual is recognized as being the abstraction it is, however, the adversarial logic of liberalism will no longer assume the appearance of a universal law. Wealth would then cease to be the weapon one uses to secure oneself from falling into an autonomy-threatening dependence upon others. One sees this freedom from the adversarial logic of libertarianism represented in the later Nozick's discussion of "symbolic utility" in *The Nature of Rationality*. One would, as his discussion suggests, be freed from a social framework that reduces people to Hobbesian utility maximizing machines, conditioning us to seek at every turn the satisfaction of our contingent appetitive urges, and improve our relative strategic positions to the detriment of others, who always remain, if only

implicitly, our social competitors:

A large part of the richness of our lives consists in symbolic meanings and their expression, the symbolic meanings our culture attributes to things or the ones we ourselves bestow. It is unclear, in any case, what it would be like to live without any symbolic meanings, to have no part of the magnitude of our desires depend upon such meanings. What then would we desire? Simply material comfort, physical security, and sensual pleasure? And would no part of how much we desired these be due to the way they might symbolize maternal love and caring? Simply wealth and power? And would no part of how much we desired these be due to the way they might symbolize release from childhood dependence or success in competition with a parent, and no part either be due to the symbolic meanings of what wealth and power might bring? (*The Nature of Rationality* 30).

As we shall see, symbolic meanings provide the interpretive space in which we, as 'rational choosers', can open our socially 'insulated selves' up to the possibility of realizing larger social meanings or 'utilities' that others can share in. There could then be real utility, or value, realized for the individual, in giving up a certain amount of utility value - compromising, to some degree or other, their Hobbesian strategic interests for the sake of realizing a social meaning that they value highly and with which cause they wish to be identified. Through their actions they would define themselves, and show others that it is possible to define oneself, as the type of person who represents, and supports, this particular social meaning. Through such actions, one demonstrates that this meaning is worth at least the amount of utility value one has given up for it. This then challenges others to do the same, and extending to others the opportunity for them to show you that there are other meanings worth this amount of utility value, or perhaps even more. Indeed, the later Nozick's discussion of "civil disobedience" (*Philosophical Explanations* 390) can be represented in these terms. One accepts a degree of utility loss in willingly accepting punishment in order to show society that the cause for which they suffer is worth the price.

It is this sort of meaning, as we have seen, that the logic of the libertarian-state prevents us from fully realizing. It is then not surprising that the Nozick of A.S.U. was unable to find adequate discursive space for the presence of symbolic meaning:

The political philosophy in *Anarchy, State and Utopia* ignored the importance to us of joint and official serious symbolic statement and expression of our social ties and concern and hence (I have written) is inadequate.
We live in a rich symbolic world, partly cultural and partly of our own individual creation, and we thereby escape or expand the limits of our situations, not simply through fantasies but in actions, with the meanings these have. We impute to actions and events utilities coordinate with what they symbolize, and we strive to realize (or avoid) them as we would strive for what they stand for. A broader decision theory is needed, then, to incorporate such symbolic connections and to detail the new structuring these introduce (*The Nature of Rationality* 32).

As the above quotation suggests, Nozick finds it necessary to expand the parameters of traditional decision theoretical calculations to account for the legitimate influence symbolic meanings can have upon the rational calculation of benefit of a proposed action. Given the manner in which such calculations are currently structured such influence can only be seen as irrational. As they are now represented, the rational calculation of utility from an action is determined solely by the value the action has in terms of the causal influence it is expected to exert. The likelihood of an action causally producing a posited end is quantified. This becomes the basis of the action's "expected utility" (*The Nature of Rationality* 27). What value, in short, can this action be expected to have in bringing about a particular desired state of affairs? The decision that one is led to by means of this calculation does not, however, take into account the value that a particular action can have in symbolizing a meaning that extends upon itself. An action's meaning is rarely, if ever, abstractly closed in upon itself. The interpretive value of a given action, within a particular situation, is generally understood to fall under a larger class of social meaning. Once we view this particular action, in this situation, as symbolically representative of an important definite class, we cannot simply decide our response to it without concern for the larger meaning it is taken to represent. We must consider how our response to this situation will be read in terms of the meaning it stands for.[12] Thus in attempting to maximize our decision value - to make the most of our strategic options as rational deciders - we must include symbolic utility in our calculations. Thus as Nozick points out, we can concede that the action we have chosen to undertake in this particular situation will not be strategically valuable as far as expected utility is concerned and yet continue with it. In such instances, it will not be enough to criticize, as does the Utilitarian, the decision solely on the basis of a low value on an expected utility calculation. The action we have undertaken, motivated by a consideration symbolic utility, gives expression to a larger meaning we wish to give our support to - an expression of meaning that serves to encompass and transform the interpretive value of this particular situation. It is to the realization of this larger meaning that one is looking in the particular instance. In calculating the utility of the present action we must then factor in the cost to this meaning should we abandon it when confronted by a situation in

[12] Indeed, arguments about what is the right thing to do, or to have done, often center around the issue of what class the situation itself, its meaning, is assumed to be representative of.

which there is nothing to be gained, in the immediate strategic sense, from continuing to determine our actions by it. To abandon it now would symbolize our willingness to 'sell it out' or 'to sell it short'. By maintaining our resolve however, we attach a value to the action that it otherwise would not possess and challenge, as noted above, others to value this meaning also. The inclusion of symbolic utility within our calculation of decision value allows us then, to make sense of our reluctance to abandon moral principles in the face of countervailing expected utility calculations. The Utilitarian is simply unable to prevent their ethical actions, decided on the basis of expected utility calculations alone, from undermining principles that we are reluctant to be swayed so easily from. As critiques of Utilitarianism demonstrate, ethical principles, when reduced to this kind of calculation, become seriously undermined. Part of their very meaning though, is that they must not be sold short simply for the sake of a quick return in additional expected utility. This does not however commit us to the Kantian categorical exclusion of expected utility considerations. Nozick's contribution to decision theory allows us to bridge the argumentative divide between the Kantian deontologist and the Utilitarian. Where the Utilitarian considers only expected utility, to the abstract exclusion of symbolic meaning, the Kantian demands that we do precisely the opposite. This is perhaps best demonstrated in Kant's classic example of the "inquiring murderer". We see in this example that there is no useful benefit in telling the truth to the murderer that could possibly balance out the great cost (in expected utilitarian terms) that we would incur. The inclusion of symbolic utility within decision theory does not then mean ignoring the value of expected utility.

Returning to our main discussion - enriched it is hoped by a consideration of symbolic meaning - we see that in the libertarian state, no longer viewing oneself as belonging, intrinsically, to any larger organic body of meaning, within which one's life could play an integral part in furthering, and in terms of whose larger purpose one's finite life would grow (what Nozick will later call giving one's life "weight"), one's life becomes radically finite. This social logic makes anything like symbolic utility appear foolish. Many of us however share the wish Nozick expresses below, hoping that our lives will make real contact with the world in a manner that is both substantial, and expressive of the ourselves:

> The kind of impact we might wish for makes a large positive difference to something's sense of meaning (or to some other appropriate evaluative dimension). We want this difference to stem from something non-trivial in us. To accidentally bump into someone with large and cascading effects - a positive version of "for want of a nail..." is not enough. We want the large effect to be due to a characteristic we value, better

yet, to an integrated combination of them (*The Examined Life* 177).

It is kind of meaning, the social/symbolic, that the logic of the libertarian framework frustrates our attempts to realize. The Later Nozick will identify the fear and resentment that comes to darken a person's life as they confront death with the experience of the radical finitude felt by the person who has understood him/herself in libertarian terms:

> Attempts to find meaning in life seek to transcend the limits of an individual life. The narrower the limits of a life, the less meaningful it is. The narrowest life consists of separated and disparate moments, having neither connection nor unity (*Philosophical Explanations* 594).

As we shall see shortly, this random assortment of disconnected moments of life are all that the intrinsic abstract conception of life can reasonably expect. The 'dissociated life', as we might call it, represents the psychological correlate of the atomistic view. As the above quote suggests, one's life, lived under such terms, lacking the expressive integrity of a coherent meaning, would be a cheat. One moment would simply drift randomly into the next, producing a self alienated individual, incapable of a stable identity. Even the freedoms that one has so jealously guarded would become a further source of alienation. Enmeshed within the infinity of reciprocal relations constituting the social nexus, and identifying oneself in this purely private manner, confining one's conception of identity in other words to that small social space one has, through one's efforts, carved out for oneself, one cannot but find one's freedom shrinking to, as indeed would one's whole life, a "vanishing quantity" (*Phenomenology of Spirit* 214). The self, conceptualized in this intrinsic abstract manner becomes alienated, both synchronically, in the manner we have seen, and, in not recognizing itself as situated within a society whose lived history has placed one in the determinate position one has found oneself in, diachronically. Mark Halprin within his novel *A Winter's Tale* eloquently expresses this sense of dislocation:

> The deep maze of the city, its winding streets, tumultuous avenues and remote squares, circles, and courts with their teeming thousands, swallowed him up easily and he became one of the great army of the unknown, the ragmen, the wanderers, the ones who cried on the streets (183).

A society founded upon such an understanding of identity cannot, as the Libertarian believes, really escape the *bellum omnium contra omnes* of the state of nature. Lacking any overarching principle through which individual projects and aims might be coherently unified, agents, and the particular ends

they posit, Kant points out, cannot but come into practical conflict or "contradiction" with one another. Discord and dissonance are then sure to occur. Contemporary problems of social isolation, gratuitous violence, drug abuse, etc. appear to be strongly related to this alienating, adversarial social existence. Society governed under liberal principles, deduced from this atomistic epistemology, inevitably, given its internal logic, becomes, as American urban life demonstrates, a "condition of lawlessness, demoralization, and brutishness" (*The Philosophy of Mind* 22). This is so because, in the absence of any "logic" (Hegel) or "force" (Kant) able to unify the individual interests people choose to pursue, members become engaged in ceaseless, self-contradictory, self negating struggle with one another. One person's projects are frustrated, and their chosen ends reversed or simply negated, through the projects of another. The state simply attempts, as best it can, given the restrictions placed upon it, to regulate the hostility.

What is interesting to note here, in light of our discussion of Locke's illegitimate conception of natural law, is that Hobbes will see the figure of the sovereign as that external force necessary to impose coherent unity upon an otherwise dispersed diversity. The early Nozick, within the logical space of his libertarian doctrine, is also found lacking any such overarching, unifying principle. For the protective agency to embody this principle and provide the sort of regulative unity the state appears to need, it would first have to violate the terms of its contract. One sees this objection raised by right-wing political groups in the United States. Attempts on the part of government, e.g., on such issues as pornography or gun control, to act in the broader social interest become frustrated by groups that imbed their particular, socially unpopular, cause in the universal rhetoric of individual rights. In this way they are often able to gain a broad measure of judicial and social credibility. Such laws that do get passed - placing restrictions on behavior once tolerated, while attempting, in the same gesture, to demonstrate their compatibility with an individualistic account of rights - appear to be the judicial equivalent of the squared circle. The government cannot simply side step this problem by attempting to balance the interests of society against the rights of the individual. As the early Nozick argues, society is simply an aggregate of self-interested individuals. Stated in these terms, then, society itself cannot have its own interests. Society becomes reduced in this manner to the external mechanism of the state and the state is, as we have seen, charged with the task of protecting individual rights from violation. Paramilitary groups exist, in large part, to

ensure that this contract they have formed with the state is not broken. For Hobbes however, this force, the Sovereign, insofar as it will inevitably be consented to, is consistent with one's autonomy and constitutes an improvement to the state of nature which, in the absence of a higher intrinsically unifying moral order, is always implicitly a state of war:

> But the right of Nature, that is, the naturall Liberty of man, may by the Civil Law be abridged, and restrained: nay, the end of making Lawes, is no other, but such restraint; without the which there cannot possibly be any peace. And Law was brought into the world for nothing else, but to limit the natural liberty of particular men, in such a manner, as they might not hurt, but assist one another, and join together against a common Enemy (*Leviathan* 185).

Given that one must smother one's own contingent desires, however, and conform one's will to the arbitrary judgments of the sovereign concerning what is to be labeled good and what is to be condemned as evil, the problem of externality recurs:

> But whatsoever is the object of any man's Appetite or Desire; that is it which he for his part calleth *Good* : And the object of his Hate, and Aversion, Evill; And of his Contempt, *Vile* and *Inconsiderable*. For these words of Good, Evill, and Contemptible, are ever used with relation to the person that useth them: There being nothing simply and absolutely so; nor any common Rule of Good and Evill, to be taken from the nature of the objects themselves; but from the Person of the man (where there is no Common-wealth;) or, (in a Common-wealth,) from the Person that representeth it; or from an Arbitrator or judge, whom men disagreeing shall by consent set up, and make his sentence the Rule thereof (*Leviathan* 39).

The libertarian state, although constituting a single community, like the dispersed aggregate of the Hobbesian individual's life in which, as we shall see, each contingent desire struggles for assertion over against all the others, represents merely an identity in difference, an aggregation of isolated individuals, *united* in their mutually shared desire to remain radically *independent*. Although necessary to preserve one's estate, in limiting the absolute freedom one would have in the state of nature, the state is necessarily seen as Janus faced. The liberal state thus retains, for all its instrumental value, the aspect of a limiting coercive other, imposing its will upon one's otherwise unlimited freedoms.

Contrary to Hobbes, Locke and the early Nozick will, with the positing of the natural law, attempt to establish an authority whose validity is such that even the sovereign must conform to it. The natural law, simply Nozick's side constraints in other terms, would place limits on the sovereign's arbitrary use of power. The "perfectionist state", of which the Hobbesian would represent in ironic example, introducing as it does a moral order, if one grounded solely upon the sovereign's contingent

interests, must be refused. Hobbes, more consistent in following the discursive logic of intrinsic abstract ordering concept, however, rejects this attempt to posit an authority higher than that of the Leviathan. As he sees it, in the state of nature, *we*, understood in atomistic terms, are ontologically distinct, autonomous *atoms of self-interest*. We could then have no principle of "the good" higher than, and external to, that constituted by our contingent appetites and posited ends:

> For morall philosophy is nothing else but the science of what is *Good*, and *Evill*, in the conversation, and Society of man-kind. *Good*, and *Evill*, are names that signifie our Appetites, and Aversions; which in different tempers, customs, and doctrines of men, are different: And divers men, differ not onely in their Judgement, on the senses of what is pleasant, and unpleasant to the taste, smell, hearing, touch, and sight; but also of what is conformable, or disagreeable to Reason, in the actions of common life. *Nay, the same man, in divers times, differs from himselfe...From whence arise Disputes, Controversies, at last War (Leviathan 110*, my italics*)*.

We must not miss the strong suggestion that this condition of war applies equally to the internal life of the individual. This is made even more explicit in the definition Hobbes gives of happiness, or in his terms, "Felicity":

> Felicity is a continuall progress of the desire from one object to another; the attaining of the former being still but the way to the later. The cause whereof is, That the object of man's desire, is not to enjoy once onely, and for one instant of time; but to assure for ever, the way of his future desire. And therefore the voluntary actions, and inclinations of all men, tend, not onely to the procuring, but also to the assuring of a contented life; and differ onely in the way: which ariseth partly from the diversity of passions, in divers men; and partly from the difference of the knowledge, or opinion each has of the causes, which produce the effect desired (*Leviathan* 70).

In short, the picture of human existence Hobbes paints, following out the implications of his atomistic presuppositions, is one in which we must understand ourselves as ceaselessly driven from one contingent desire to another. What is absent in this intrinsic abstract conception of life is any principle of priority governing which desires are worthy of satisfying, or how these desires themselves might best be related to one another; just as amongst individuals each pursuing their "divers" ends. Each desire or inclination, regardless of what direction it wishes to assert itself, would have as much intrinsic right, as Hobbes points out, to be fulfilled as any other. We remember that with the emancipation from meaning there is no standard external to the subject that could claim authority in arbitrating between them. In the absence of which authority however, our internal life becomes a battleground in which the random and varied appetites must struggle amongst themselves to decide which one we shall fulfill. Hegel gives

expression to this internal division, the psychological correlate of the social contradictions:

That contradiction which is the arbitrary will makes its *appearance* as a *dialectic* of drives and inclinations which conflict with each other in such a way that the satisfaction of one demands that the satisfaction of the other be subordinated or sacrificed, and so on; and since a drive is merely the simple direction of its own determinacy and therefore has no yardstick within itself, this determination that it should be subordinated or sacrificed is the contingent decision of arbitrariness (*Philosophy of Right* 50).

Nozick, in following Kant's point regarding the necessity for some principle of unity to be brought to bear upon one's life, that "acting automatically without any guidance" is not enough, will take the first step in moving beyond his libertarian atomism:

The Kantian tradition tends to hold that principles function to guide deliberation and action of self-conscious, reflective creatures; hence, principles have a theoretical and practical function. We are creatures who do not act automatically, without any guidance. We could imagine having automatic guidance - would that make principles completely otiose for us? - or, more to the point, acting in a way that does not utilize guidance, for instance at random. (would acting completely at random suffice to free us from the domain of causality, the function Kant reserves for principles?, doesn't this show that the purpose of principles is to guide us to something, whatever it is, that we would not reach at random? And doesn't that leave principles as teleological devises? Kant however, would also hold that principles are an expression of our rational nature, constitutive of rationality. To think of act rationally just is to conform to (certain kinds of) principles. Hence it would be a mistake to look only for extrinsic functions that principles serve (*The Nature of Rationality* 39).

The Kantian Influence

I would at this point like to follow Kant's critical questioning of the limits of the libertarian tradition. Doing so will assist us in marking out the discursive junctures that can take one, Nozick for example, immanently from the libertarian position *toward* the interpretive wholistic view. If Kant's position, though identifying theoretical weaknesses that the libertarian position lacks the discursive resources to remedy, is itself found insufficient to respond to the deficiencies it has isolated, logically *necessitating* the adoption of interpretive holism, and this is also demonstrated immanently, not borrowing assumptions from the outside, then we will have established that there are not two mutually exclusive philosophical systems to choose from, the atomistic/libertarian and the holistic. We will have demonstrated that the only way to adequately address the theoretical weaknesses of a libertarianism grounded in epistemic atomism is to become its antithesis, an interpretive holist. Stated in the most

dramatic terms possible, interpretive holism is, in this Hegelian dialectical sense, critically presupposed by the atomistic libertarian.

Kant's critique of libertarianism will show us that on the terms laid down by the atomist, life could not be lived, at least in the manner that we would recognize as minimally meaningful. Without the unity that Kant seeks to find the necessary conditions for, life would be utterly dissolute. There would be no supervening purpose present that could integrate, and thus give the coherence necessary for the stability of meaning to the otherwise dispersed infinity of an agent's atomistically segregated life moments. It is for this reason that Kant says of those who give themselves over to "the unregulated pursuit of an inclination of his own devising" that they become "an object of utter contempt" (*Lectures on Ethics* 123). They would be, in the extreme case, like an animal, an "unreasoned" beast, simply carried, as Hobbes' discussion of felicity demonstrates, from one appetitive impulse to another. One impulse, like individual pursuing his/her radically self-posited end, would become negated through the appearance of another.

As we shall see, this raises for Kant, and thinkers following in his critical tradition, the later Nozick for example, serious questions regarding the identity of the individual. In his work on subjective identity Nozick follows this Kantian line of questioning. Precisely who, or where, in this random collection of desires could the self be located? The answer appears to be, as Hume argues, nowhere, at least in the sense that we, or they themselves, could come to some knowledge of this identity. To whom could these displaced moments belong? We could not simply establish such knowledge on the basis of attempting to grasp all of this dispersed self's aggregate parts. As Hobbes points out, there is a continual succession of these drives, demonstrating no underlying necessity or coherence. Represented here is what Hegel calls a "bad Infinity", just one random atomistic element, in this case inclinations, endlessly following upon another. Hume, when he attempts to locate the self introspectively runs into this problem of finding a stable locus for individual identity. All that he meets with is the random succession of thoughts but no stable, self identical Cartesian substance, the self , within which they all inhere:

> For my part, when I enter most intimately into what I call *myself,* I always stumble on some particular perception or other, of heat or cold, light or shade, love or hatred, pain or pleasure. I never catch *myself* at any time without a perceptions, and never can observe anything but the perception (Taken from *Philosophical Explanations* 111).

John Dewey in the following discusses the presupposition, understood in its strong Kantian, transcendental deductive sense, necessary for our knowing someone:

> Were it not for the continued operation of all habits in every act, no such thing as character could exist. There would be simply a bundle, an untied bundle at that, of isolated acts....conduct would lack unity being only a juxtaposition of disconnected reactions to separated situations.(*Human Nature and Conduct* 30)

In other words, our ability to know someone, or indeed even to know ourselves, depends upon the integrity of character, of the sort Kant conceives the faculty of reason imposing. If people's actions and interests dramatically shifted each day, as would be the case if reason were simply in the employ of our contingent appetites, lacking any implicit coherence, we could never gain an understanding of others, nor could others come to know themselves. Knowledge of self and others depends upon our ability to see, for the most part at least, how the various moments of an individual's life cohere with one another, presenting an intelligible, integrated unity. It is clear that the "untied bundle" Dewey refers to exemplifies this subjectless subject we have been discussing. The later Nozick will, following the movement Kant first initiates, reject the fractured identity that this atomistic philosophy leaves us with. A self, so Nozick argues, acknowledging Kant's critique into the limits of this ontology, necessarily presupposes more than this Humean random aggregate of diverse experiences. Nozick makes clear his view that the self, in a strict Kantian sense, presupposes a coherent regulative unity amongst its various moments: "A life, a person's existence, is not simply the unordered set of these things; it is the particular whole they make up, with the self at the center" (*Philosophical Explanations* 533). In the absence of such coherence we would not be selves at all:

> We are not empty containers or buckets to be stuffed with good things, with pleasures or possessions or positive emotions or even with a rich and varied internal life. Such a bucket has no appropriate structure within; how the experiences fit together or are contoured over time is of no importance except insofar as some particular arrangement makes further happy moments more probable. The view that only happiness matters ignores the question [i.e. an ontological issue] of what we - the very ones to be happy - are like (*The Examined Life* 102).

As for the "autonomous will" that the libertarian had taken such pride in, it becomes a fiction, reduced to nothing more, as Hobbes acknowledges, than "the last Appetite in Deliberation" (*Leviathan*

47). The power of reason, within this atomistic orientation, becomes "the slave of the passions". To respond to the threat this represents to the intrinsic dignity of the individual, a dignity the libertarian had simply assumed, Kant will initiate a process of reflection on rational identity that will end in the radical re-conception of 'the faculty of reason'. Reason for Kant, like the Hobbesian Leviathan, becomes that force that strives to *impose* coherent unity upon an otherwise dispersed diversity:

> Reason is impelled [I.e. is purposive and thus, contrary to Hume, has its own interests] by a tendency of its nature to go beyond the field of its empirical employment, and to venture in a pure employment by means of ideas alone, to the utmost limits of all knowledge, and not to be satisfied save through the completion of its course in a self subsistent systematic whole. (*The Critique of Pure Reason* 630).

The above represents an example of reason in its theoretical employment. In its practical employment the same teleological "imperative" for the systematic unity of diversity is also manifested:

> All maxims as proceeding from our own making of law ought to harmonize with a possible kingdom of ends as a kingdom of nature. This progression may be said to take place through the categories of the *unity* of the form of will (its universality); of the *multiplicity* of its matter (its objects -that is, its ends); and of the *totality* or completeness of its system of ends. (*Groundwork of the Metaphysic of Morals* 104).

This interest of reason is also exemplified in the purely formal manner in which Kant understands the categorical imperative to work. Kant, as we shall see, identifies reason with something like a Hobbesian 'Leviathan of the soul'.

This atomism of the soul has thus raised for Kant a very serious challenge to the concept of individual autonomy and, by extension, to the very possibility of morality. Unless the critiques Hume and Hobbes issue against the integrity of the subject can be answered, morality becomes a myth. It is ultimately upon this integrity that morality, in the logical sense, necessarily depends as its condition of possibility. Locke had simply dismissed the Hobbesian threat on the basis of pre-critical assumptions regarding the presumed power of reason to know God's law. This approach, however, raises for Kant the Platonic problem of how we can know a law external to us and how we can know that we know. Kant will respond to the Hobbesian moral nominalism by utilizing, as I have suggested, the transcendental deductive method. Given the fact that we have moral duty, feel its call apart and often against our inclinations, all Kant need do is argue back from its existence to the conditions of its possibility. Kant asks, in other words, what conditions must we necessarily presuppose to account for the existence of

morality. As I have already noted, individual autonomy is the condition without which morality would not be possible. Following this transcendental deduction, we have established that individuals, contrary to the logic of the intrinsic abstract conception, cannot simply be slaves to their passions. Kant now need only show, in turn, how this autonomy, given that it does exist, presupposed as it is in the fact of morality, is itself possible. If the Hobbesian/Humean account of identity, determined through an atomistic epistemology, was all there was to it, we could account neither for the existence of a coherent subject, nor for the moral duty that this subject is called upon to perform. The implication is that the intrinsic abstract conception of identity lacks the conceptual resources to provide an adequate explanation of how subjectivity and moral duty are first possible[13].

Chapter Two: The Turn to Interpretive Holism

In following the discussion in Appendix I, we have seen that the Kantian system is unable to adequately address the contradictions within libertarianism that it has identified. Specifically, Kant's criticism of libertarianism is that it fails to account, indeed within the logical space its premises have established cannot account, for conditions it must, nevertheless, presuppose. The Kantian philosophy, though, recognizing the rational necessity in accounting for these conditions, becomes, however, inextricably entangled in its own contradictions. This does not imply, then, that Nozick, or we with him, could simply return to the atomism with which our narrative began. Our reconstructed Nozick, acknowledging the internal logic of his discursive position, finds himself compelled, finally, to adopt the holistic view. Only by doing so is Nozick able both to avoid the contradictions internal to Kant's philosophy, rejecting as well his conception of reason as autocratic, while at the same time allowing Nozick to provide an explanation for the unity that subjectivity necessarily presupposes. To demonstrate this, we will need to take a close look at Nozick's "Closest continuer theory" of identity, paying careful attention to the rational necessity motivating the theory's construction. As shall be apparent, the theory

[13] See Appendix I for a discussion of Kant's failed attempt to theorize this issue. Nozick's own account is perhaps best understood when read as a response to the theoretical insufficiency and moral Puritanism of the Kantian conclusion.

represents Nozick's attempt to give us a satisfactory account of individual identity. Nozick will conclude that the conception of identity upon which libertarianism was constructed is, fundamentally, incoherent. The notion of the pre-constituted self contracting into the state is simply pre-critical. We recall from chapter one that libertarian side constraints were deduced from the presumed 'fact' of our individual identities. Nozick, as we shall see, will find that our identities are, radically reversing the libertarian assumption, socially constituted. There simply are no pre-political, rights bearing selves that could contract into the political realm. Once Nozick reverses the libertarian's point of departure, he, then, is no longer constrained by the side constraints that were once thought to set the inviolable, pre-political, boundaries of political philosophy.

Our discussion of Kant has been useful in orienting this discussion. Kant recognized, through the works of Hobbes and Hume, that on the premises the libertarian begins with neither society nor individual agency would be possible. Ironically, the mistake Kant makes is to take this threat to identity too seriously. For the later Nozick, following Hegel, the fear of a radically dispersed self to whom the regulative force of reason would have to be applied, *ab extra*, no longer represents a real threat. Such a disintegrated existence is simply not a practical possibility. Kant, in other words assumes, as a real possibility, radically self-alienated or psychologically dispersed individuals. People are, however, as Nozick notes, intrinsically, if not fully, rational. Were a person to behave in a manner such that their actions were continually entering into practical contradiction with one another, they would, and properly so, be placed under psychiatric care. Surviving in the world, and realizing practical projects necessary to this end, demands at least an implicit, if not terribly well governed, relative stability. (The same is of course true of the state. It is for this reason Nozick rejects as too strong Socrates' assertion, one Kant's philosophy as we have seen endorses, that the "unexamined life is not worth living" (*The Examined Life* 15). Nozick does add however, that when our lives are self consciously guided and thoughtfully integrated, "it then is our life that we are living, not someone else's. In this sense, the unexamined life is not lived as fully (*The Examined Life* 15). I take Nozick to mean that taking self conscious possession of one's life through principled action allows one to exclude self defeating, unconscious motivations. As Nozick's discussion of "disequilibrium" (*Philosophical Explanations* 349) suggests, psychoanalytic treatment can perhaps best be

understood as the attempt to bring to conscious awareness, and therefore 'our' control, those hidden motivations that lead individuals to perpetuate behaviors that are, *from the internal perspective* of our long term goals and strongly held ideals, self destructive. Taking possession of one's life in this additional sense would remove the influence of latent, counter productive impulses, and our unconscious servitude to them (Kant's heteronomy). This then permitting us a greater degree of personal autonomy: "This increase in (awareness of) integration of previously isolated parts enables one to act with more power and a wider band of intense focus, and thus feel more real" (*The Examined Life* 132). In contrast then to the resentment before death that the libertarian world view engenders, i.e. a life as dispersed amounting to nothing, at least in the sense of presenting a coherent retrievable meaning, interpretive holism allows us to view our lives as a creative, interpretive project, an expressive, "organic unity" (*Philosophical Explanations* 86):

> Deaths are called "untimely" when they end lives where much still was left possible that went unfulfilled. But when you no longer have the capacity to do what is undone, or when you have done all that you considered important, then…you should not be so very unwilling to die (*The Examined Life* 21).

Nozick in making this discursive move is now able to retain the unity exhibited by the Kantian moral puritan, while rejecting at the same time the status of reason as an alien sovereign ruling 'autocratically' over the other faculties of the self. In his own words, Nozick rejects the external legislative status of reason for the sake of a "harmonious unity rather than one part ruling the others" (*The Examined Life* 18). For Hegel and Nozick, reason, implied in the move to interpretive holism, is internal and constitutive of the identity of the self; rather than merely external and regulative. As Nozick himself notes, he can in this instance be understood to further, with Hegel, Fichte's radicalization of Kant's transcendental unity of apperception (*Philosophical Explanations* 76). The self, in following out the implications of this radicalization, then, need not ignore its phenomenal interests for the sake of its rational autonomy. The self, as Nozick defines it in "The Closest Continuer Theory" (*Philosophical Explanations* 29) of identity is, in the essential sense, the coherent, internally regulated, though evolving, unity of needs, desires, and relationships; whose identity is maintained at the level of its evolving unity, and not in any one particular feature or unchanging attribute.

Unlike the Cartesian conception of identity, upon whose presumed existence the libertarian

deduces the minimal state, we need not posit a necessary, or essential portion of the self, e.g. a "soul pellet" (*Philosophical Explanations* 60), that must remain substantially the same throughout the many changes that the self undergoes in order for us to plausibly consider a drastically changed person as an instance of the same self at a later date. All we need do to make this assertion of identity meaningful is demonstrate the continuity of self beneath the apparent flux of change. Nozick hopes in this discussion to explain how identity is possible through continuous change. Some such discussion seems necessary if he is to undermine the soul pellet conception of identity. The positing of a self-identical self seemed to be necessary to account for identity through time. If Nozick, within the parameters of his new position, is unable to explain the possibility of identity then the libertarian presupposition, along with its correlative notion of individual rights, would become reinstalled.

It is for this reason that Nozick undertakes a phenomenological examination of the issue. Nozick, occasioned by Bernard William's work on identity, will deny the possibility of finding any completely stable, self-identical locus around which merely peripheral change might subsequently revolve (*Philosophical Explanations* 60). (In relation to political philosophy, this suggests that we are not self-identical selves, free to contract into or out of our social relations.) For the later Nozick, rejecting the libertarian soul pellet hypothesis, what constitutes an essential aspect of the self, as distinguished from its merely peripheral qualities or accidental features, is to some degree - the scope and direction of which we shall have occasion to examine more fully later - a 'decidable feature' of the self. To anticipate, Nozick will argue that the identity that the self decides upon depends, as a necessary condition of its possibility, upon a pre-existing, interpersonal context of meaning. This implies, logically, that the self cannot simply contract into these constitutive relations; rather they precede the actions of the self-defining agent and make them possible.

As we shall see, in the process of its evolution, essential features of the self, often only implicitly decided on, can be decided against later in favor of other subsequent contending features. Nozick's discussion of Bernard Williams' work on identity does nothing if not frustrate our attempts to identify a thing with a particular feature or property this thing possesses - reducing in this fashion the discussion of identity to a discussion of the simple self-equivalence of something to itself over time. We also see here

the related point that a thing's identity is not sufficient unto itself but is to a certain degree a 'decidable feature'. Nozick reaches this conclusion by contrasting his Closest Continuer theory of identity with what he calls the "Intrinsic Abstract Structural" concept of identity (*Philosophical Explanations* 47).

As Nozick points out, this theory relates - aside from the issue of self synthesis, addressed in our radicalization of Kant, the peculiar process whereby a self constitutes itself as a self by appropriating its otherwise ownerless moments and features into itself - to the general question of identity over time. Personal identity is then simply a special case of this more general issue. Examining the conclusions of Bernard Williams' essay "The Self and the Future", Nozick finds that a wholly inadequate philosophical ordering concept, the "Intrinsic Abstract Structural", is, implicitly, at the root of Williams' inability to adequately theorize the notion of continuity of identity through time. More significant to our project is the fact that it is this ordering concept, establishing the rational for assuming the validity of the self-identical self, that fundamentally determines the libertarian project.

For Williams' the identity of something can conceivably relate solely to questions of its self-identity, the equality of itself with itself, over time. Thus whether something is an instance of this same thing at a later date cannot, for Williams, depend on any actually existing, or merely possible third thing, but only upon this thing itself and the relation it has, abstracted entirely from its relational context, with itself at a later time:

> If x at time t1 is the same individual as y at later time t2, that can depend only upon facts about x, y, and the relationships between them. No fact about any other existing thing is relevant to (deciding) whether x at t1 is (part of the same continuing individual as) y at t2 (*Philosophical Explanations* 31).

If this thing's identity at a later time could be problematized, called into question, ontologically, by the appearance of some separate other thing, then identity does not in fact continue to reside in this later thing, and cannot possibly constitute an instance of this same thing at a later time. Something is, in the ontological sense, for Williams, simply, relationlessly, what it is. How, Williams asks, could the appearance of some later existing thing influence, ontologically, the self-identity of something else at a later time? On the terms Williams lays down, it could not. Whether something continues to exist at a later time could depend upon its own continuing features alone. The existence or non-existence of something

else then is simply irrelevant. From his first principle regarding self-equivalence, following from Williams' notion of self-sufficiency, an expression of the Intrinsic Abstract concept, in our terms an atomistic orientation, Williams has inferentially drawn this, his second principle:

> If y at t2 is (part of the same continuing individual as) x at t1 in virtue of standing in some relationship R to x at t1, then there *could not* be another additional thing at t2 also standing (along with y) in R to x at t1. If there also were this additional thing z at t2, then neither it nor y would be identical to x. If that z could exist, even if it actually does not, then y at t2 is not identical with x at t1 - at least, it is not in virtue of standing in the relationship R (*Philosophical Explanations* 31).

As Nozick points out, Williams uses this principle as a means of establishing that "bodily continuity is a necessary condition of personal identity" (*Philosophical Explanations* 32). We can see how this is so; if R is the relation of bodily continuity, then only some one thing could conceivably hold the place of the same thing at a later time. This excludes the possibility of something else claiming the same identity. If there could, even as a logical possibility, be some such entity, then, logically, there could not have been any real bodily continuity, and consequently no later identity. As plausible as Williams argument seems, indeed from his premises unavoidable, Nozick will nevertheless take issue with it. In fact, Nozick makes the strong claim that the two principles, discussed above, from which this argument draws its conclusion, are false (*Philosophical Explanations* 32). To undermine their validity is of course to call into question the Intrinsic Abstract Structural concept from which they in turn were deduced.

To avoid obfuscating the issue by confronting directly the subtleties, and sensitivities, surrounding the issue of our own identities, where we might be inclined to harbor certain long held prejudices regarding our own self-sufficiency, Nozick begins by first testing the interpretive adequacy of the Intrinsic Abstract Structural concept against a case in which this issue can be looked at without reference to personal identity. Nozick takes as an example the Vienna Circle and its continuity of identity after its departure from Austria and Germany during the Second World War. Nozick asks us to imagine that there are twenty members of this group. Of these, three move to Turkey and continue to meet and discuss issues central to their organization's concerns throughout the war's duration. In view of the other 17 members still living, continuing to meet and discuss organizational concerns elsewhere, this group of three views itself and is viewed by others as simply a smaller unit within the broader organization. In 1943 however, they receive word that all these others have been killed. Nozick argues, and properly so,

that the group in Istanbul is now, in fact, the Vienna Circle (*Philosophical Explanations* 32). It is this small group of individuals alone that perpetuates the original group's ideals and identity. It becomes, then, the sole locus of the organization's identity. For two years they continue to meet as the Vienna Circle. Then, in 1945, they receive word that nine of the original members they believed dead had in fact escaped to America. This group of individuals, like those in Istanbul, routinely met throughout the war, to continue the Vienna Circle's projects. Nozick argues that it is this group that now must be considered the Vienna Circle. The group of three were simply, though for good reasons, mistaken about their status. Rather than being the group itself these members of the Circle simply represent an isolated offshoot.

Nozick at this point does not present an argument for this conclusion. The basis of it, as we shall see however, rests upon his Closest Continuer theory of identity. We are given the opportunity to draw this conclusion, unaided, ourselves. The virtue of proceeding this way is that it allows us to see how Nozick's theory can make sense of our intuitions on identity, intuitions that remain frustrated on the terms Williams lays down. Williams we recall, argued in accordance with his Intrinsic Abstract Structural concept, that the identity of something, in this case the Vienna Circle, could not be influenced by the presence, possible, or actual, of some other thing. In Nozick's example however, we saw that the identity of the group in Istanbul, whether it was the Vienna Circle or not, depended upon whether or not there was another more representative group around.

Precisely what are the intuitions that Nozick theory of identity is, in contrast to Williams', able to preserve? Or, the same question stated in another form, why are we inclined to shift the identity from the first group to the second? If Williams was right, then the existence of the American group would be irrelevant to the question of whether the group in Istanbul continued the identity of the Vienna Circle; but, as we have seen, it is not. If the group of three were the only surviving group then it would be the sole locus of the original group's later identity. However, when we discover the existence of the group of nine in America we recognize that it is much more likely to carry the complexity and flavor of the original group. The group in Istanbul we fear, possessing only three members, is more inclined to be skewed toward the particular biases of the three members. The American group, much more representative of the original's composition, and also, as with the group of three, continuous with it, is then the Vienna Circle

at this later date. The American group is the Closest Continuer of the earlier, pre-war, Vienna Circle and its identity is then continuous with this American group.

Unlike William's theory, Nozick's can make sense of our decision, and the problem - the fact that there was a "z", the American group, that could place the "y" at t2, the Istanbul group, in doubt as to its identity - that first made a decision necessary. The Closest Continuer theory as Nozick presents it is not strictly speaking prescriptive, though it can, as we shall see, help us to sort out problem cases. Its virtue lies in its descriptive, structuring ability. We can, utilizing its resources, show how the identity of something often is a decidable feature of it; a feature that depends upon the particular matrix of closeness we use to establish identity. Nozick describes his theory as follows:

> The closest continuer view holds that y at t2 is the same person [or thing] as x at t1 only if, first, y's properties at t2 stem from, grow out of, are causally dependent on x's properties at t1 and, second, there is no other z at t2 that stands in a closer (or as close) relationship to x at t1 than y at t2 does.
>
> Closeness, here, represents not merely the degree of causal connection, but also the qualitative closeness of what is connected, as this is judged by some weighting of dimensions and features in a similarity metric (*Philosophical Explanation* 37).

In the case we looked at the decision regarding identity was rather straightforward. We could, however, complicate the features of it, reversing our decision simply by changing our implied matrix. Where would the Closest Continuer lie if the three members in Istanbul were the central intellectual figures around whose creative output the group of nine in America merely followed, perhaps offering the occasional modest insight? The conclusion seems to be obvious. The intellectual leaders would be the closest continuers of the original group. Nozick asks us to consider the possibility of competing matrices of determination. Using the "traditional puzzle of identity over time", the ship of Theseus, Nozick demonstrates that depending upon which matrix one is working with, one can arrive at one of two different yet equally warranted decisions regarding the later identity of this ship. The ship as we recall, during the course of a long journey has, one plank at a time, each and every one of its planks replaced by new pieces. Over the course of time there are no original pieces of the ship left. If all the planks were replaced at one time we would of course have an entirely new ship. When each plank however, is replaced individually we have the old ship as the context of identity in terms of which each new plank assumes its place. The ship does not suddenly disappear when the last of its original planks has been replaced by new

ones, nor is it slowly being replaced by a new ship. A single plank does not a ship make; nor indeed does the simple aggregation of them. The single planks become part of a ship by assuming their place within the continuing identity of the original ship. As Nozick points out, in each instance of replacement, it is the "same ship with one plank different" (*Philosophical Explanations* 33). As we shall see, this process has its correlate in the case of personal identity. We undergo changes in beliefs and attributes all the time. This does not mean that we cease to be ourselves and suddenly become somebody else. The context against which the change takes place, a change attributable to some identifiable someone, ourselves, is our ongoing individual identity. Nozick asks us now to consider what would happen to our view of the ship's identity if we discover that each plank that had been replaced was preserved somewhere and later reassembled. We now have two ships before us, each with a claim on the identity of the original ship. Which ship, Nozick asks us, is the ship of Theseus?

Now, as Nozick points out, the closest continuer conception does not determine for us - though it does help to "sort out and structure the issue" (*Philosophical Explanations* 33) - which of the two ships is the original ship of Theseus at this later date. It does not tell us which is the closest continuer because, as this instance demonstrates, the issue of identity through time often turns on what particular matrix we find most meaningful in determining closeness. In this instance, we find that "spatiotemporal continuity with the continuity of parts" competes with the quality of being composed, in the exact configuration, of the original pieces (*Philosophical Explanations* 33). Which one takes precedence? As Nozick points out, there is no neutral matrix that can determine the answer for us. Interpretive value will end up deciding the issue. If our interests and understanding is served better by one judgement rather than the other then we will make our decision on that basis. We might find however, as in this instance, that we are unable to make a strong decision for one claimant over the other. As two individual things cannot both be the continuer of some one thing, we might be forced to conclude that there is no continuer. Situated in a practical context, one in which the question of identity has real, versus abstractly theoretical, import, we expect, however, that the matrix we use to determine identity will appear all but self-evident.

Although not prescriptive regarding the matrix one uses to determine identity, the Closest Continuer theory does specify features that something must posses to be the continuer of something. The

qualities possesses must have been causally produced by its earlier identity, or grow out of this identity as an extension of itself; not simply share qualitatively similar features produced otherwise. The continuer also, as a necessary condition, must be "causally dependent (in an appropriate way) on the earlier ones. The condition that something is a continuer incorporates such causal dependence" (*Philosophical Explanations* 35). These criteria restrict the scope of possible contenders to those that can demonstrate continuous material affiliation, through time, with the original. Nozick also points out that the concept is somewhat of a misnomer. It is not sufficient for something to be a closest continuer of something in Nozick's theoretical sense for it to be the closest continuer. As confusing as this first seems, Nozick simply wishes to point out that something can be more closely related to an earlier something than anything else and yet not be this thing's closest continuer (*Philosophical Explanations* 34). This later thing might not be close enough to meaningfully qualify. The earlier something will not then have any continuer at all. It will have ceased to exist. This thing that is closer to it than any other existing thing may in fact be the closest continuer, in Nozick's sense, of some independent other thing. Thus, as Nozick argues, we must also focus on the issue of the "closest predecessor" (*Philosophical Explanations* 42). Although this later thing is closest to some earlier thing than any other existing thing, this later thing might have as its closest predecessor some other thing. If something is the closest continuer of something, and has this earlier something as its closest predecessor, then it is the closest continuer in the Nozick's technical sense. Nozick terms this relation a "mono-relation", and this relation is required for something to be the closest continuer of anything (*Philosophical Explanations* 42).

In relation to personal identity, Nozick's closest continuer theory serves to move us beyond the theoretically limiting confines of the atomistic, "soul pellet", conception. The Intrinsic Abstract Structural conception of identity, prevented adequate theoretical access to issues of identity through time. With this new interpretive tool, we can begin to theorize aspects of personal identity that were once beyond our grasp. The Intrinsic Abstract Structural conception had limited the question of identity to the notion of simple self-equivalence. For something to express this quality however requires that there be some immutable center, the "soul pellet", or some functional equivalent - the Cartesian substance within which the thinking of the subject would inhere, or Kant's noumenal identity. As Nozick's discussion of Hume's

criticism points out, there simply is no such feature of the self that stands entirely at remove, ontologically, from subsequent change.

Extending, as now we must, the issue of interpretive matrixes to include individual identity, we can see how others, in mapping our identity, might find that the selves that we have become are so changed in the "weighted sum of dimensions" (*Philosophical Explanations* 33) used to track our evolving identities that we are 'no longer the same person'. The weights used in the implicit interpretive matrix exclude the current self from being accepted as close enough. Very often it is only after some drastic change that the implicit weighting dimensions become explicit. Husbands divorcing their wives after a mastectomy can serve as an unhappy example here. Indeed, we might ourselves undergo some change, drastically altering our profile on our own personal "weighted sum of dimensions", in significant areas, such that we can no longer see ourselves as the same person. The developmentally mentally handicapped tend to cope much better with their situation than those similarly handicapped through an accident. Those whose self-identity relates strongly to their mental acuity might find, subsequent to such an event, that they are no longer living their own lives. The self that they have become is no longer sufficiently close to stand as the continuer of their former self. Suicide in such cases is a concern. A professional athlete, driven into retirement as a result of injury or a strongly athletic person permanently confined to a wheelchair might have similar experiences. Nozick's closest Continuer theory allows us to make sense of these phenomena. Therapy, in implicit acknowledgment of Nozick's closest continuer theory, involves changing the dimensions along which one weights one's identity, or balancing the other aspects of the self to outweigh the strength of the other dimension.

The interpretive value of the closest continuer theory is readily apparent when we look to certain problems that the field of psychology is challenged by. This is especially true in the phenomena of amnesia and fugue where the question of identity is at issue. An amnesiac is, to some degree or other, unable to recall who they are. Salient aspects of their personal history have become lost to them. If they cannot recover their past, who are they? Are they a new person? This would depend, applying the lessons of the theory, upon the degree of discontinuity. If this person is able to appropriate, through recollection, enough significant details of their past, they may have the interpretive materials necessary to re-establish

meaningful continuity. Indeed, this is how treatment generally proceeds. The therapist takes the patient on 'inferential walks', beginning from the dispersed bits of memory the patient has, toward the relationships that these experiences imply. It is not enough that others possess these materials, or that the patient be told of their past selves. If the later self cannot meaningfully establish a continuity of identity then for all practical purposes there is, in the strong ontological sense, a new person. This is acknowledged in our treatment of such individuals. We do not simply force them into 'the old mold'. Real affiliation with the self's past must be expressed. If such affiliation cannot be gained, the (new) person begins from where they are. Although the closest relative view aids in our understanding of the puzzles surrounding personal identity in the case of amnesia, it does not appear however to have the interpretive resources to deal usefully with the phenomenon of fugue. In instances of fugue an individual typically discovers themselves after some period of time, occasionally long periods of time, in a location some distance from where they reside without any memory as to how they got there. Unlike the amnesiac, this person at the later date does remember their past selves. It is the intervening period that is lost to them. Did the first person die and become replaced by a stranger occupying their body, only to be returned to themselves later? Certainly the person while in the fugue does not carry with them a real practical affiliation or continuity of identity with the original self. The context in which they now are, the acts they undertake, do not grow out of the intentions, plans, beliefs, and desires of the original. Aside from bodily continuity, which in the case of the amnesiac did not appear to be enough to make the claim for identity, the self within the fugue would seem an altogether new person. Indeed, like the amnesiac, if they remained in that state, if their past lives were lost to them, making no practical/social connection with it, we would have to say that the original person is no longer - that it has been replaced. In terms of the closest continuer, or closest relative theory there has not been the necessary continuity of identity to reunite, at least in terms of psychic continuity, the earlier and later selves. The self in the fugue did not grow out of the original self, was not its closest continuer. At that point, there is no continuity of identity. How then can this person after the fugue be the same person as the original self? If bodily continuity was not enough during the fugue to establish identity, how can it be now? Nor can we say that this later self grew out of the person in the fugue. Just as the self during the fugue had no practical continuity with the original self, so the person after recovering

from this state has no affiliation with the self that is in that state. Must we then posit a soul pellet to account for the identity we feel there somehow must be? This is a thesis however whose validity we have undermined elsewhere. In the case of the amnesiac the soul pellet hypothesis would have done nothing to assist the person in re-establishing their identity. The hypothesis simply would have done no work. To assert identity now where none is experienced, as in the case of the amnesiac, is completely fatuous. Retrieving the soul pellet now would seem less than responsible. Although the closest relative view seems unable to help us here, its natural extension does. It is here where we might best look at Nozick's "Global view" (*Philosophical Explanations* 50). It is described as follows:

> For some topics, a global condition and structure is a natural successor to the closest relative one. It widens horizons, holding that something satisfies concept C only if it stands closest in R to a specified y, and also is a (necessary) part of any wider thing that stands closer in R to any y than do other comparably wide things. Thus, one might hold that an acceptable theory not only must fit the evidence as well as any alternative theory of the same phenomena, but also must be part of any wider theory of more inclusive phenomena that fits the evidence more closely than any other theory alternative to it (*Philosophical Explanations* 50).

Nozick is very clear the global view is an extension, not a replacement of, or alternative to, the closest relative structuring concept (*Philosophical Explanations* 51). The global view works, in the case of identity, to reconstruct the continuity of identity over a decisive break. The global view allows us to unite the earlier and later selves into a (once again) integrated identity. The intervening period is then contained within a larger context of meaning where its presence ceases to be a threat to continued identity. We need not fear the accusation that that this 'creative elaboration' of the closest continuer theory is simply contrived. We do see, as the closest continuer theory requires, that the attributes and aspects of the later self, recovered from the experience of fugue, have grown out, and are direct expressions, of the pre-fugue self. It is only because of this continuity between earlier and later selves that we felt the need to postulate the soul pellet. We have seen that this is unnecessary, that the closest relative view, and its natural extension suffice.

Nozick's closest continuer theory further allows us to usefully apply the "ship of Theseus" allegory to our understanding of personal identity through time. The features with which I define myself-hood by, essential to my self-conception, may in later years become rejected in favor of 'new essential features'. Over a period of time I can change everything about myself, appearance, sexual orientation,

favorite flavor of ice-cream, vocation, political/religious affiliation, etc., and still recognizably remain the same person throughout for someone who has followed this process of evolving identity. For someone, my mother for example, who sees in each instance of change, the broader background of sameness, against which each change becomes meaningful as the change of a particular someone, me, rather than a mere Humean flux, there is no problem in identifying me as the self beneath the change; there is then a continuous self that undergoes this series, as yet unfinished, of adaptations, and lifestyle reversals[14]. For someone who has lost touch with me for a long time however, my best friend in high school let's say, this continuity over time that my mother experiences will not be present, he will not have a sense of continuity against which I can be recognized as the same person. For him I will simply not be the person that he once knew. This does not however imply that he, and society with him, are presented, in contrast to my mother, with only a the Hericlitean flux of random change, that my old friend will have no means to identify me as that person he once knew. As Nietzsche points out, there is a social need being served in maintaining the continuity of identity. This interest places constraints on how far I can distance my future self from my current self. Radical rupture is, at least in some aspects of my identity, socially proscribed. I am limited to the changes I can 'get away with', or that will be seen as socially legitimate. I cannot within this society 'become a different person' as a way, for example, of escaping contractual obligations. Society compels me to identify myself-hood, in part at least, with my past commitments. Institutions such as promise keeping, marriage, family, friendship, etc., carry with them the expectation that the self-synthesizing subject, the self that appropriates into itself its experiences and reorders its life on the basis of its evolving interests, will appropriate into the new self that it is in the process of becoming the 'piece of itself' that it has committed to them. Nietzsche argues then, that it is the expectations placed upon us by these institutions that serve toward the construction of continuous identities. It is not because we have an enduring selfhood, a soul identity, that we can have institutions that might be seen as presupposing it;

[14] It is interesting to note that this process of evolving identity is further complicated when one considers that there very often are battles concerning the tracking of identity. As dramatic as this sounds, they easily and frequently occur. The best and least exotic example of this phenomenon is perhaps instances in which adolescents come to feel that their parents no longer really know them, that 'they have become a different person'. The tension and frustration centers around the conflicting system of weightings used to track the evolving identity. The parents are not giving sufficient weight to those features that this adolescent sees as central to his/her identity.

rather, we become stable selves, to the degree that we do, because our social institutions demand this degree of continuity.[15]

As our discussion demonstrates, society will provide my old friend with the interpretive resources to locate a closest continuer of my former self. This will be the self that has the credit rating, employment history, and other such social markers of my (thus far) continuous identity. We find in examining the problem cases Williams has given us, that there simply is no one feature that can always reliably serve as the locus of identity. Any feature that we might try to posit can, as Nozick's discussion shows, be outweighed by the balance of other features that another self, not the one that we in our intrinsic abstract concept are constrained to select, possesses. This other self, even though it does not possess this 'essential feature', may be much more like our original self, representing its closest continuer. We are compelled to accept this self as the changed version of the first, recognizing that it is in fact much closer to the original than any existing alternative, and is close enough causally so as not to create a gap in the continuity of identity. This then leads Nozick to replace the search for the hidden identity beneath change with the discussion of how the self comes, through the reflective act of self synthesis, to appropriate and unify its otherwise dispersed Humean moments.

With this revised conception of identity we are also in a position to approach the issue of moral/legal responsibility in a much more theoretically satisfying manner than previously. The closest relative structuring concept allows us, in short, to bring our theoretical statements on the issues of

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[15] Although it may appear to, this Nietzschean thesis does not contradict the notion, discussed earlier, that the self is self-synthesizing. It does however reject the notion that the self has absolute interpretive freedom to 'decide on itself'. That would make the process completely arbitrary and unstable. From where would the identity, not yet formed, get it standards of merit and relevance? There is simply no self-conscious self present to provide it with any. The self is, as we have seen, an ongoing interpretive construct or project. This is equally true from the first person perspective. The construction of identity always takes place within a particular socio-cultural context, one which favors certain appropriations of character and past experience over others. Some appropriations, as noted above, are obligatory, and through constant reinforcement we come to internalize the felt need for choosing to continue to synthesize this bit of self over other abstract competitors. These other bits are not real competitors because in this context this bit, unlike those others, is functionally necessary. We simply are not born fully constituted but become so. By the time we 'find ourselves' and can begin to pay self-conscious attention to the self that we are in the process of becoming, we have already acquired an interpretive ballast that centers our further choices of self-synthesis. We are thus social selves prior to becoming private selves. We are able to undertake the process of self-reflection and, consequently, acts of self-synthesis only by virtue of the interpretive tools that society provides us with.

culpability and coercion into coherent agreement with our current practices. At present, our theoretical statements not only seem counter intuitive, they are not acted upon. This then leads to a situation of interpretive dissonance. In terms of our current theory, oriented by the intrinsic abstract structural concept, certain of our current legal and moral practices seem unjustifiable. From the perspective of these practices however, our theoretical statements seem altogether too limited in their understanding to do justice to the complexity of their presumed field of application. Nozick looks at the principle of the "attribution of action" as structured by the intrinsic abstract conception (*Philosophical Explanations* 48). Examined from this perspective, responsibility for an action is "an intrinsic feature of the action" (*Philosophical Explanations* 48). In the determination of culpability, we need only determine whether or not the person who committed the crime in fact intended to do so. If the agent possessed the requisite intent, that action is theirs. This then makes the issue of coercion secondary in terms of the attribution of the act itself. Although coercion constitutes a crime against the person to whom it is applied, it nevertheless does not shift the attribution of the act coerced onto the coercer. The act, though coerced, remains the property, stemming from his/her intentions, of the perpetrator. In our legal/moral practices however, this simple judgement is not in fact made. What we in fact do is look at the heinousness of the crime itself and the amount of coercion to which the perpetrator was subjected. If the crime was great, and the amount of force used minimal, we continue to attribute the act to the perpetrator. If however the reverse is true, or at least the force/threat used was all but irresistible under the circumstances, we do not attribute, as a matter of social practice, the crime to its perpetrator but to the person doing the coercing. Although inexplicable on an intrinsic abstract structural conception of attribution, this practice nevertheless seems proper. Once we restructure the moral/legal field in terms of the closest relative concept however, our practice falls agreeably in line with our theoretical understanding. In its terms, it is not sufficient to ask if the perpetrator possessed the requisite intention. We must ask the further question, do the actions stand in a closer relation in terms of intentions, motivations and interests to someone else? If the act is coerced, the act is not simply desired more by some other person, a co-conspirator perhaps, it is not desired at all by the perpetrator. The act is entirely external to the identity of the agent and not an extension of their self-hood. In the principle of a statute of limitations on a crime the same tension

between our theoretical understanding of the attribution of action, based upon the intrinsic abstract structural concept, and our practices occurs. In practice, moral as well as legal, we recognize that with sufficient temporal distance it becomes problematic to simply identify the perpetrator with the act s/he committed many years earlier. Under the previous conception, the person who committed the crime, as a self-identical self, remains, forever identifiable with the action. In our closest continuer view however, this later person in a very real, ontological sense may not be the same person that committed the crime. The motivations that guided him/her to the crime may long since have been personally repudiated. The act is then no longer an extension of the agent, but has become exter 3 an extension of the agent, but has become external original perpetrator were someone else entirely. What keeps this discussion verging on the metaphorical is of course the continuing social need to ascribe responsibility. Also, as the Closest Continuer Theory helps us to sort through, there is no other cause that is causally closer to the act. Taking a glance backward, we see that this discussion has left the altogether abstract libertarian conception of identity behind. Rather than presenting a pre-constituted identity, the self must be seen as an interpretive, evolving construct; as such, state of nature allegories, so fundamental to the libertarian project, can do absolutely no real theoretical work.

In dialectical fashion Nozick is able, with Hegel, to give coherent theoretical expression to the one-sided truths disclosed in what would appear to be the mutually exclusive conceptions of selfhood discussed by Hume and Kant. With Hume, Nozick and Hegel acknowledge the absence of any eternally present, self-identical self (*Philosophical Explanations* 111), and with Kant, recognize that a self could not simply be a bundle of perceptions, a "Heraclitean Flux" (*Philosophical Explanations* 60), but must, in an internal or reflexive act of self synthesis, come to uniquely possess its experiences (*Philosophical Explanations* 110). Only by doing so could a self come to truly possess itself, i.e. establish its identity: "Only a theory of such a self synthesizing self can explain why, when we reflexively self-refer, we know it is *ourselves* to which we refer" (*Philosophical Explanations* 90). One should note the implied transcendental deduction in the preceding quote. The argument is that we must presuppose that selves are reflexively self referring as the condition without which a self could not authoritatively possess its experiences. The self, as Nozick describes it, following Hegel in synthesizing the insights of both Kant

and Hume, is "an ongoing, changing, and evolving unification of psychological traits, plans, bodily features, etc., where identity is maintained at the level of the ongoing whole, not by some part that never changes" (*The Examined Life* 141). Reason therefore, contrary to Kant's concept, is not external to the interests of the situated self. Unifying one's life through principled action does not then imply an *ab extra* imposition of reason's autocratic teleology. Rather, the unity that one establishes, one's identity, is an expression of one's thoughtfully considered interests. Certainly, as Kant warned, contingent desires may arise, ones incompatible with the established unity constituting one's identity. Rejecting them however, if one does, will be from a position internal to one's evolving identity:

> Where are we standing when we say that avoiding the temptation is the better alternative, and why is that standpoint more appropriate than the person's standpoint within the time interval B [i.e. the "moment" of temptation]? ...The time interval B is not the appropriate benchmark for deciding what the person ought to do because B is not a representative sample of her view of the matter. The time interval A [the point at which one's long term goal is posited] and C [its culmination] sum to a larger interval (*The Nature of Rationality* 16).

The long term goal, unlike the temptation, is able to unify more aspects of oneself and situate itself much more coherently within one's other projects than can the *diverting* interest. This does not entail the immediate rejection of all new interests and experiences that create tensions within one's unified identity. The self, though a relatively stable, integrated unity, is nevertheless fluid enough to respond to shifting and evolving needs, interests, and external exigencies. Given sufficient time, the self may, like "the ship of Theseus" metaphor Nozick uses to describe this process, change in its entirety. Adorno within his work *Negative Dialectics* describes the process through which a scientific paradigm resolves its insufficiency to its own content of interest:

> Rational science, which imagines itself to be the basis of truth's legitimacy, trims objects down to size and processes them until they fit into the institutionalized "positive" disciplines, and does so in the service of its own ordering concepts...What motivates Hegel's concept of reification is the idea that science is concerned less with the life of things than with their compatibility with its own rules (73).

For the paradigm to serve its use, to conceptually unify its objects of interest, it must dialectically resolve the *immanent* contradiction. In the same manner, as Nozick describes it, one's identity will need to adapt itself, restructure its internal order, perhaps even reversing, in the extreme circumstance, certain aspects of self separated into the categories of the essential and the contingent, so that it can incorporate this new interest. As with the scientific paradigm however, the unity that the self possesses is not simply abandoned

for the sake of the new interest. It is only within this unity that the disruptive appearance makes its presence felt and before which the need to coherently integrate it is demonstrated. It is important to recognize that there then remains throughout this process of re-alignment, a valued content to which the rational individual remains responsible:

> One further word can be said about the commitment involved in the bestowal of weights. Acting later on those weights anchors your later choices to them, and them to later choices. Part of this nonrandom character of the weighting is shown by the life built upon them; perhaps it not merely is exhibited there but exists there (*Philosophical Explanations* 306).

This process then places constraints, flexible and evolving, upon the degree and direction subsequent change may take. Long held values, central experiences, relationships and meanings in a person's life, although they to can be displaced in light of further experience, exert a strong gravitational pull or act as interpretive ballast:

> These bestowed weights (or comparative weightings of reasons) are not so evanescent as to disappear immediately after the very decision that bestows them. They set up a framework within which we make future decisions, not eternal but one we tentatively are committed to. The process of decision fixes the weights reasons are to have. The situation resembles that of precedents within a legal system; an earlier decision is not simply ignored though it may be over-turned for reason, the decision represents a tentative commitment to make future decisions in accordance with the weights it establishes, and so on (*Philosophical Explanations* 297).

Change, in response to new interests and encounters must, unless these core experiences are, in the face of deep existential crises, radically undermined, as in instances when people come to believe that they have been living a lie, preserve the relative coherence that is one's identity. Such crisis, by way of contrast, is radically unstable, and indeed often requires the aid of the psychotherapist to assist the agent in 'putting the (dispersed) pieces together again'. An interesting literary example is presented in Pat Barker's work *Regeneration* where such a process of "reconstruction" is undertaken on soldiers suffering from severe shell shock. Barker makes clear how truly radical and ideologically implicated this process can be. Absent as we are of any essential self to provide a fundamental point of departure, an original identity around which one's subsequent experiences simply revolve, all the therapist is left with are the dispersed radically incommensurable aspects of a former self, unable to coherently integrate in one stable subject position the horrifying experiences they have undergone. The demands of duty, allegiance to country, ethical views, including the respect for life, a desire to live, etc., represent incommensurable

values. The therapist cannot then be understood to be engaged in an archeological project, uncovering, or recovering the 'true identity' of the patient. In such radical cases there is no interpretive ballast present that could decide authoritatively for one hermeneutic 'reading of the patient' over an other. Nozick in the following questions the possibility of "conflicting self-subsuming decisions". What prevents the decision the self finally arrives at from being entirely arbitrary is that it can be shown to have been guided by the previous weighting alignments it has made, the interpretive balance it has thus far maintained:

> A self-subsuming decision does not happen inexplicably, it is not random in the sense of being connected to no weighted reasons (including the self-subsuming ones then chosen). But although it doesn't happen just randomly, still, there are different and conflicting self-subsuming decisions that could be made; just as there are different fundamental, self-subsuming laws that could hold true, could have held true. Is it not arbitrary then that one self-subsuming decision is made rather than another? (*Philosophical Explanations* 301).

In the case at hand, the patient lacks precisely this sense of appropriate weighting to which it must constrain its further self-subsuming decisions. The 'reading' that the therapist undertakes is then, at the same time, a construction. The weightings that will determine the subject's interpretive integrity will be decided upon during the course of treatment. The process, as Barker makes clear, represents more of a constructive artistic process than any re-constructive process governed by its own internal necessity. The therapist situated as we all are in a determinate discursive context, is in this case an officer in a military hospital. He is then held responsible to certain institutional norms and values, and is then never free of objective standards of relevance. He is in fact constrained to effect the "regeneration" of his patients, compose his object in other words, in a manner that serves very determinate social interests. In other words, the weightings used to *decide the patient* are objective and are thus obligatory within this discursive context. The appropriate reading of the subject, to which an irresponsible or merely subjective reading can be found deficient, is one that 'makes sense' in terms of its institutional weightings. This is of course merely the institutional analogue of the value weightings that in society at large, provide the conditions presupposed in subjective identity. The pervading sense of appropriate, practically conceivable weightings determine thereby practically possible subject positions. Such communities of shared meaning are, as we have seen in our discussion of identity, never simply contracted into but represents the discursive context or language game that provides the conditions for intelligible individual expression to

first be possible. Thus when Nozick discussing the freedom individuals have to decide the weightings that shape their identity, he does *not* assert that this decision is radically undetermined, as the existentialist Sartre would imagine it, allowing us to impose whatever meaning, including our radically unsituated self identity, upon a meaning neutral world. Rather, our self conceptions are constrained by the conditions of mutual intelligibility. The weightings, if a little esoteric, providing one with a degree of 'interpretive play', still must make contact with the world, allowing one, and others, to make sense of their objective social subject position: "the measure is *partly* up to the individual"(*Philosophical Explanations* my italics 69).

> Again: what is special about people, about selves, is that what constitutes their identity through time, is *partially determined* by their own conceptions of themselves, a conception which may vary, perhaps appropriately does vary, from person to person (*Philosophical Explanations* my italics 69)

What we might find objectionable in such cases as Barker narrates is that, unlike our internally motivated decisions of self subsumption, here the decisions are made externally, made according to standards that the therapist, not the patient, is *responsible* to. The self undergoing this constructive process does not, as in the normal situation, "shape and choose them [processes of its own change] initiat[ing] and run[ing] them" (*The Examined Life* 128). On the other hand, there is a very real sense in which there is no self in the case at hand that could make these self-subsuming decisions. Stable change in the subject even when challenging certain very central aspects of the self, preserves and reintegrates, perhaps with a large amount of internal re-arranging, the greater part of the old identity. There remains, in other words a self for whom these decisions merely represent the ongoing process of internal readjustment.

Nozick, as we have seen, is now able to answer Kant's concerns by demonstrating how the conditions necessary for the coherent unity of the subject are first possible, doing so without recourse to pre-critical postulates Kant thought were conditions without which such unity could not be thought. What remains to be discussed in relation to Kant's concerns is establishing the conditions we must presuppose to explain rationality, or the coherent unity of diversity, at the social level. Just as the various moments of an individual's life must be organically related to one another to establish the coherence presupposed in identity, so, in the political realm, each individual's life, to exhibit itself meaningfully, must integrate

itself within the social totality in such a manner that their personal projects, subjective meanings, and identities, can be articulately interwoven in the broader fabric of shared social understandings and projects. To the extent that my particular projects of self definition presuppose, again in the logical sense, a particular historical context of meaning, a shared social game in other words, as the background against which they become the intelligible (to myself as well as others) social moves that they are, to that extent my projects are, and necessarily so, socially and internally, related. Having abandoned the soul pellet notion of identity, an identity fully constituted prior to any relationships it may subsequently join in, and to which the identity of self remains at ontological remove, we must see the self as evolving through the course of its engagements. Kant represents here an excellent example of the kinds of absurdities one becomes involved in when one retains the atomistic, self identical, notion of the self. For all his critical insight, Kant is able to see, rigorously following the logic of his atomistic view of identity, marriage only on contractual terms, in this case for the "reciprocal enjoyment of one another's sexual attributes" (taken from *The Philosophy of Right* 413). Nozick, having rejected this abstract view of the self, recognizes the self in a loving relationship does not maintain impermeable boundaries around its identity. The selves that enter such a relation really do "constitute a new entity" (*The Examined Life* 70). Given the strong hold the atomistic conception of identity has upon us in our culture, finding support in both philosophy, carried forward from at least Descartes, the 'Father of modern philosophy', and in western religious traditions, it would be easy to mistake Nozick on this point. Nozick is not speaking allegorically or using poetic license here. For Nozick this "We" that has formed has an ontological presence that is more than the sum of its different parts:

> A party in a "we" is not free to unilaterally and arbitrarily abstract itself from such a unity. Each transfers some previous rights to make certain decisions unilaterally into a joint pool; somehow, decisions will be made together about how to be together. If your well-being so closely affects and is affected by another's it is not surprising that decisions that affect well-being, even in the first instance primarily your own, will no longer be made alone.
> The *[singular]* term *couple* used in reference to people who have formed a *we* is not accidental. The two people also view themselves as a new and continuing unit...They want to be perceived publicly as a couple, to express and assert their identity as a couple in public (*The Examined Life* 71).

As a constituent of this new identity one has an obligation to this entity's well being, its continued existence, extending beyond simply the particular interest of the prior existing private self. That would

imply that the sum of this unity's value is reducible, as it is for the libertarian, to the sum of its constituent parts. As the discussion below suggests and Nozick's concept of intrinsic value supports, such reductionism is no longer plausible:

> The intention in love is to form a *we* and to identify with it as an extended self, to identify one's fortunes in large part with its fortunes. A willingness to trade up, to destroy the very *we* you largely identify with, would then be a willingness to destroy your self in the form of your own extended self (*The Examined Life* 78).

This analogy, although a proper extension of the wholistic turn, does not demonstrate how radical the implications are for our sense of identity or individual autonomy. It remains true that we, each of us as individuals, are selves prior to entering into such socially available "we" relationships and thus have an identity before joining them, and continue to do so, though changed to some degree or other, after departing from them. The social context however is not simply one project of "we" forming amongst others. Although through our agency we can effect subsequent change, just as the disruptive appearance within the unity of the self, this unity, in sharp reversal of the contractarian position, is precisely one context that we can never simply contract into, or construct, as autonomous individuals. This context is rather, the condition without which such "we" forming, the projects in terms of which we as individuals come to constitute ourselves as the specific individuals that we are, would not exist. It this relatively stable context of meaning, the shared social game, in short, that provides the conditions necessary for one to become a self at all:

> To talk of the priority of "society" to the individual is to indulge in nonsensical metaphysics. But to say that some pre-existent association of human beings is prior to every particular human being who is born into the world is to mention a commonplace. These associations are definite modes of interaction of persons with one another; that is to say they form customs, institutions. There is no problem in all history so artificial as that of how "individuals" manage to form "society" (*Human Nature and Conduct* 44)

Thus, although Nozick recognizes the ability of agents to "choose themselves", or pursue from among those socially available identities one equal to their abilities and their particular needs for self expression, he rejects the libertarian implication that individuals can "make themselves", simply impose, like the Hobbesian sovereign or individual in the "State of Nature", whatever arbitrary, contingent, and radically subjective meaning they choose upon a "value neutral" world. Thus like the self, we no longer require an external sovereign to impose its unity upon an otherwise dispersed social aggregate. Society like the self

possesses its own internal order or interpretive ballast, a coherence that is maintained at the level of its evolving whole. It is to this point that Adorno speaks in the following:

> The economist puts it this way: Everyone pursues his private interest and thus unwillingly and unwittingly serves the private interest of all, the general interest. The joke is not that everyone's pursuit of his private interest will in effect serve the entirety of private interests, that is the general interest; from this abstract phase it might as well be inferred that everyone mutually inhibits the pursuit of the other's interest, and that, instead of general affirmation, the result of this bellum omnium contra omnes will be general negation. The point is rather, that the private interest itself is [always] already a socially determined interest, one that can be pursued only on terms laid down by society and by the means provided by society (*Negative Dialectics* 335).

In other words, Hegel's, the immediate individual is always already socially mediated. Thus, contrary to the strong existentialist view, the individual cannot be understood as radically self making. Stated in the form of a transcendental deduction, a necessary condition presupposed in the minimal intelligibility of my self defining agency, again, even to myself, is that it can be tested against the world around me. This is a world already structured by social meanings, values and institutional form. It is to these that my actions can be shown to be appropriately or inappropriately responsive to. As Dewey in the following notes, our intelligence is not a private affair. Our knowledge of the world is a social knowledge, a knowledge that necessarily includes judgements of morality and value:

> Our intelligence is bound up, so far as its materials are concerned, with the community life of which we are a part. We know what it communicates to us, and know according to the habits it forms in us. Science is an affair of civilization not of individual intellect (*Human Nature and Conduct* 216)

This principle of the objectivity of value is, for Nozick, necessarily presupposed in the possibility of meaningful agency, or, in other words, of a self being a coherent self. If one's affective and practical lives did not map onto the world coherently, one's projects would, again, simply be unintelligible. Indeed, such inappropriate behavior as laughing at funerals or pursuing ends incompatible with the exigencies of the world as they are at present, assuming ends appropriate perhaps only for the Queen of France for example, are signs of severe psychosis:

> [E]motions are attached to events and objects in their movement. They are not, save in pathological instances, private. And even an "objectless" emotion demands something beyond itself to which to attach itself, and thus it soon generates a delusion in lack of something real. Emotion belongs of a certainty to the self. But it belongs to the self that is concerned in the movement of events toward an issue that is desired or disliked (*Art as Experience* 420)

Thus we find critical warrant for positing the objectivity of values, though in a later to be qualified sense. "Emotions are to be connected to actuality...as responses to the facts based upon correct beliefs and evaluations" (*The Examined Life* 118).

One's inappropriate responses may however also be the result of a petty, egoistic self identity that conflates the value of the world with the dictates of one's own radically finite interests. What such a person finds, rather than a meaningful social identity, seeing in the infinite nexus of social relationships and shared values a common identity in which they might join and attempt to further, as our discussion of symbolic utility suggests, is, ultimately, alienation. In so doing, they choose a life as narrow and confining as their egoistic interests allow:

> To love the world and to live in it in the mode this involves gives the world our fullest response in a spirit that joins it. The fullness of this response enlarges us too; people encompass what they love - it becomes part of them as its well being becomes partly theirs. The size of a soul, magnitude of a person, is measured in part by the extent of what that person can appreciate and love (*The Examined Life* 266).

This argument rests of course on our earlier discussion of forming a "we". By joining others in common cause we, each of us, take part in a larger, more expansive identity. The criminal does not, as for Kant, simply exclude him or herself from the entirely abstract "kingdom of ends" rather, he or she alienates him or herself in the very real, existentially felt sense that derives from the severing of ties to family and community implied in the egoistic view.

Contrary to certain misreadings of Hegel, likely to be foisted upon Nozick, the above does not necessarily imply a conservative thesis. Society, as Nozick demonstrates in his chapter "The ZigZag of Politics" can, and, indeed as we shall see, ought in the moral sense to be as permeable as the self. As with changes within the identity of the individual however, the constraints on intelligibility still, with equal necessity, apply. For differences to be articulate, the meanings contended over must, as a necessary condition for their intelligibility, situate themselves within the much broader shared and otherwise uncontested context of accepted meanings. It is against this background that the contending parties must present their respective cases. Only because they share a common discursive community can their disagreements carry any substantive force. Indeed, if an argument did not appeal, either directly or implicitly to these shared standards, relating to the established body of institutional facts, necessarily

normative in their existence, it is unclear in what sense the argument could be seen as taking part in the intentions of our social practices and thus being at all relevant to their purposes. For disagreements or differences to be articulate differences, disagreements about which the contending parties can make sense of the intention and significance of their opponents' assertions, they must share enough assumptions, indeed the majority of them, to be able to render each other's social moves intelligible. Only then can they begin the process of determining the relative merit of their opponent's position. Any real, i.e. recognizable disagreement thus presupposes a much broader context of agreement. Assertions and rebuttals occur and are constrained, on pain a cacophony of private languages, by a shared body of assumptions. We, in other words, assert, if only implicitly, that the game we are playing might be improved, at least for us, if we were to adopt this particular change. This background of shared assumptions provides us with a context against which we can then test the merit of the suggestion. Thus there is, as a necessary constraint on intelligibility, as in the evolving life of the individual, a content, though changing, to which the contending parties must remain at any given moment responsible. The consequences for political philosophy are dramatic.

For Hegel and the later Nozick, the atomistic individual can no longer be understood as the basic epistemic unit of political philosophy; nor can reason be reduced to the status of a faculty - if for Kant the most important for our autonomy - existing apart from, and alongside of, other faculties. As we have seen in our discussion of personal and social identity a "fact", the social one, the individual, or otherwise, cannot contrary to positivistic wisdom, simply speak for itself. A fact, as a meaningful quantum, versus a brute inexplicable appearance, purports to tell us something determinate. In abstraction, an isolated quantum remains mute. A finite, desperate entity becomes significant only after it has demonstrated its *internal*, thoroughly mediated relation to other such entities within a determinate contextual field. The entity asserts its particular meaning by demonstrating its unique situation within the infinity of reciprocal relations and influences it finds itself immersed in. Only as determinately situated can a value be ascribed to any particular entity. This is no less true if this entity is a person and that context is one's society. This necessarily presupposes a dialectical relation. The fact, whether an individual within society, or a particular event within one's life, has the meaning it has only by virtue of holding the specific place it

does within the totality of relations in which it asserts its presence. The constitutive whole, in turn, unlike Kant's "faculty of reason", is nothing other than, nor a "force" outside of, the internally articulated unity of these facts. Each side mutually and reciprocally informs the other. The necessary turn then is to interpretive holism:

> One might think that it in science a hypothesis can be established or refuted by isolated data....However, recent theorists...have emphasized the extent to which the body of scientific knowledge forms an interconnected web, where particular data can be accommodated or discounted depending upon what particular other hypothesis or theories one is willing to adopt or modify (*The Examined Life* 227).

This epistemological reversal will have dramatic consequences for political philosophy and the theory of identity that sustains it. In atomistic terms, as we saw , there was a clear incompatibility between the autonomy of the ontologically isolated individual and any state that would presume to exceed the boundaries established by the side constraints. We now see that the isolated individual, upon whom such side constraints were deduced, is a theoretically unwarranted presupposition. Acknowledging the abstract character of the isolated individual allows us, then, to escape the rigid, dialectically lifeless, confines of the libertarian framework. This does not mean, as the libertarian fears, that the individual must simply become lost in an all blanketing, totalitarian, unity. As the above should make apparent, an expressive unity, the state for example, requires, as a necessary condition of its possibility, that its constituent moments receive meaningful articulation within the unifying context of the whole.

It is in this context that Nozick's discussion of the "Ethics of Responsiveness" is perhaps best situated. This ethic is not simply an *ad hoc* addition to the later Nozick's Philosophy. It is in fact the moral correlate of the interpretive holistic epistemology he has come to endorse. Although this ethic is first suggested within Nozick's atomistic period, in A.S.U.'s discussion of the "experience machine" (42), only now, as we shall see, is Nozick able to make it do any real theoretical work. The constraining limits of the libertarian framework had prevented Nozick from exploiting this ethic's critical promise. In contrast with the libertarian, Nozick no longer views the self-identical given, the atom, as the basic constituent unit of meaning. Nozick asserts rather, that "meaning itself is not a thing but a relationship (*Philosophical Explanations* 599). Thus, should this ethic, deriving as it does from this interpretive theory, prove to have consequences that we, for good reason, might be unable to accept we cannot simply

dispose of this aspect of his project. As we shall see, this new ethic appears to reintroduce the threat of the totalitarian subsumption of individuality that we thought ourselves free from. The ethic of responsiveness as Nozick describes it has two interrelated aspects: "the fullness of the response and the fullness of the reality responded to. And this last encompasses both responding to what is most real (that is, to the deepest and highest reality) and responding to all of reality" (*The Examined Life* 248). When applied to ourselves, however, this ethic appears to seriously undermine the value of those interests and ends pursued during the course of our mundane lives.

It is at this point that one can, perhaps, finally discern the philosophical relevance of Nozick's frequent allusions to the 'secret wisdom' contained in Eastern Mysticism and Buddhist philosophy. Unless situated in terms of the implied underlying logic of Nozick's work - the logic we are attempting to reconstruct here - one may find such discussions unnecessarily 'exotic'. One might wonder exactly what critical weight these discussions are intended to bear. As I shall attempt to trace in what follows, the Eastern philosophies represent for our reconstructed Nozick the dialectical antithesis of libertarianism, totalitarianism. Having rejected the libertarian position, the question we must ask ourselves is where does this leave us? As we shall, see Eastern philosophy will challenge the libertarian on roughly the same grounds that we have. Just as the philosophical/theoretical position of the libertarian determined a practical or material correlate, the night watchman state, so this philosophy can be seen to imply the assumption of a practical stance. Nozick, while clearly acknowledging the merit of the Buddhist's negative project, the critical rejection of the libertarian constitutive root idea, will seek to challenge its constructive aspect. Eastern philosophy in general and Buddhism specifically endorses a certain relationship of individual to the pervading world. Translated into political terms, this philosophical standpoint, having made worship of the abstract individual no longer possible, appears to point to the totalitarian stance as the proper one to assume.

We recall that our critique of libertarianism has led us to adopt the ethic of responsiveness. This ethic can usefully be seen as the point of departure for Buddhist philosophy. This stance, one we share with the Buddhist, asks that we make appropriate our responses to that which is most real. Certain of our involvements with the world, however, like earning a living, or eating, while they cannot be represented

as responding to 'the deepest reality' are nevertheless necessary in the daily reproduction of ourselves. Other interests, while not strictly speaking necessary, represent those ends in terms of which we define ourselves as the particular individuals that we are. This sets up a tension. Having abandoned the atomistic conception of selfhood - understanding identity to be constituted through our relational involvements - we appear now to be called upon to deny the self entirely for the sake of responding to ultimate reality. This is of course the consequence the libertarian had warned us of. Nozick hopes, however, to find a dialectical balance between the principled priority of the abstract individual and the totalitarianism implicit in the relational posture of the Eastern philosophies. The virtue of proceeding in this manner is that it allows us to articulately contrast each position in terms of its own opposite. We will find that the totalitarian position is as abstract and one-sided as its antithesis. Only by dialectically integrating each with its other are we able to achieve a coherent, stable theoretical position.

It follows from the relational view, as we have seen, that projects of self definition cannot, as for the atomist, be understood as external accretions to an identity that is fully constituted prior to the relationships subsequently entered into. In short we, as finite individuals, come complete with all the cares, motivations and concerns appropriate to such limited beings. The attempt to assume this relational stance, and the responsiveness appropriate to it, appears to require, when confronted by the blanketing infinity of the universe, the drowning out of our all too narrow interests in this super-abundant wealth. In so doing we would become, ideally, a pure receptor of this infinity. Thus unlike the reductive libertarian, for whom all the world's wealth is but the means to his/her own particular ends, reducing this pristine infinity to one's all too limited categories of instrumental interests, one simply allows this vastness to wash over one (*The Examined Life* 214). To do so, on this relational view of identity, is to effectively drown out one's identity as an individual subject, a subject constituted precisely through its associations of particular interests and ends. All those finite ends in terms of which one could define oneself would take away from the responsiveness owed to what is 'most Real'. As Nozick himself points out, contrasted with "this highest or deepest reality" all of our particular projects and purposes would seem to shrink to insignificance (*The Examined Life* 259). To resolve this tension, between the responsiveness owed to ultimate reality while yet preserving some space, however small, for the interests in terms of which can we

define ourselves as the particular individuals that we are, we might attempt to adopt some principle of proportionality. In so doing, we could perhaps hope to balance the competing claims made on the side of our individual identities, and the reality responded to while so engaged, against those made on the part of absolute reality. Given the ethic of responsiveness however, whose first principle, as Nozick properly asserts, must be that "the extent of responses should be in the same ratio as the reality of those things responded to" (*The Examined Life* 260), we end up with the same self-alienating position. The two categories that would presume to compete with ultimate reality, our identity as it is constituted at present, and those relationships pursued during the course of maintaining this sense of self, are of course both subsumable under the third category, absolute reality. To preserve such a balance then, would be to unfairly distort reality in our favor, reducing it once again to our limited interests, rather than, as the ethic would seem to require, lifting ourselves directly up to its level:

> A more adequate way to combine the stances would give each one some weight in specifying the overall goal...The three partial goals are one's own reality, the reality of one's relation to other things, and the total reality there is (from which total, to avoid double counting, we may exclude the first two). Shall we simply add them up and guide ourselves by the resulting sum? Since the total reality is vastly greater than that of your own reality or relating- it includes the reality of other people and their relations and everything else there is as well - in the above simple sum that total reality would effectively swamp the rest (*The Examined Life* 157).

It is upon this ground that Nozick investigates the merits of those Eastern theories that call for the renunciation of self identity. They call for this drastic move for three inter-related reasons: First, as we have seen, selves, while engaged in particular projects of self definition, skew reality in their favor and are thus insufficiently responsive to total reality. Second, because we are attached to the needs and wishes of our limited selves we suffer, experience the resentment of the failed Kantian. Our attempts to impose a moral order conducing to our limited interests upon an infinite universe are seen as futile, and thus fraught with disappointment. Finally, and most importantly, these theories find that the Cartesian subject, for reasons similar to those Hume gives, is metaphysically untenable. It is ultimately, these theories argue, this dogmatic, essentially Christian conception of identity that allows us to believe that the world exists to serve our interests. As we have seen, Nozick finds the Kantian position unable to adequately work through such issues. This then leaves Nozick in the uncomfortable position of not being able to turn back to the

naïve illusions, however sustaining, of the libertarian doctrine. For these reasons then, Nozick must find the "Eastern doctrines" (*The Examined Life* 148) theoretically compelling, if not terribly palatable:

> Some Eastern theories condemn the self on three counts: first, the self interferes with our experiencing things in general as they are; second, it makes us unhappy or it interferes with our having the highest happiness; third, the self is not our full reality, yet we mistakenly believe it is.
> The terse recommendation of these Eastern doctrines, then, is to end the self. This is peculiarly difficult to achieve (short of ending life also) and this difficulty gets attributed to the wiles of the self: We are attached to the self-an attachment the self encourages-and we won't let it go (*The Examined Life* 148).

When Nozick examines this view however, he finds it also lacking in critical rigor. The means it sees necessary for achieving an appropriate responsive relation, the drowning out of the self, in fact contradicts a condition necessary for this *relation* to first be possible. In short, without the self there is no real relational stance at all. Absent a self, all that remains is a lifeless, all consuming monism. Also, the infinite wealth of knowledge supposedly disclosed in the epiphany of reconciliation appears, when challenged to display its riches, surpassingly vacuous:

> The self then is experienced differently, no longer wrapped up in the everyday constituents of consciousness or wholly constituted by it. It may be experienced as a witnessing consciousness out of time, an infinite pure consciousness without beginning or end, a pure mirror and observer of whatever is before it, a void not separate from the larger universe, an infinite space, or as identical with the deepest infinite reality itself. In each case, the self's boundaries are extended or dissolved.
> This very different character of the self as it is experienced has led some Eastern theories into needless difficulties, I think. If the self is very different and so much more wonderful, then why hadn't we realized this previously? *If it is so rich, how come it isn't so smart?* (*The Examined Life*, italics mine 246).

As both Hegel and Nozick point out, this wisdom is able to tell us nothing, save that all the contradiction, conflict, and strife that we experience in the world as limited selves is ultimately subsumed in the universal "one". By extinguishing the self, one ceases to care about the phenomenal clashes occuring amongst individuals, each struggling to secure its limited ends against the interests of all others. The infinite unity within which they all inhere is alone what 'truly' counts. One in renouncing the self is freed from the interests that previously separated one from all others. For Hegel and Nozick however, this attempt at reconciliation, continually confronted as it is by unresolved division and conflict, becomes seen as entirely subjective, and ultimately futile. Situated as we are in a resistant world, the 'stoic attitude', believing that we can, by withdrawing into the affirmative recesses of our own mind, relieve the self of the constraining circumpressure of the material reality surrounding it, without altering either itself, or the

resistant world, appears more than optimistic (*The Phenomenology of Spirit* 121). Nozick for this reason rejects the "no self doctrine" the Buddhist would use to achieve happiness:

> Some have suggested we reach this desirable state of not wanting anything else by the drastic route of eliminating *all* wants. But we don't find it helpful to be told to *first* get rid of our existing wants as a way of reaching the state of not wanting anything else (*The Examined Life* 109).

Arguing from the same neo-Hegelian, post-Kantian, perspective as Nozick, Adorno will explicitly reject the abstract reduction of cognitive pain to the subjective psychology of the individual - a subjective relationship we could unproblematically renounce. Such pain is the consequence of living in a world in which the subject/object dichotomy, the material oppositions and contradictions separating the self from its world, is left unresolved. It is this objectivity that conditions one's 'subjective' unhappiness:

> The power of the status quo puts up facades into which our consciousness crashes. It must seek to crash through them. This alone would free the postulate of depth from ideology. Surviving in such resistance is the speculative moment: what will not have its law prescribed for it by given facts transcends them even in the closest contact with the objects, and in repudiating a sacrosanct transcendence. Where the thought transcends the bonds it tied in resistance - there is freedom. Freedom follows the subject's urge to express itself. The need to lend a voice to suffering is a condition of all truth. For suffering is objectivity that weighs upon the subject; its most subjective experience, its expression, is objectively conveyed (*Negative Dialectics* 17)

As this reality begins to press upon this withdrawn, subjective autonomy, its purported freedom from suffering ceases to be sustaining. Adorno expresses the speciousness of this freedom in the following:

> What is decisive in the ego, its independence and autonomy, can be judged only in relation to its otherness, the non-ego. Whether of not there is autonomy depends upon its adversary and antithesis: on the object which either grants or denies autonomy to the subject. Detached from the object, autonomy is fictitious (*Negative Dialectics* 223).

What is needed rather, is a real, materially realized, reconciliation. For Hegel, and those following in his tradition, notably Adorno and Nozick, what this calls for is a dialectical relation between this universal, the most real, and the self that is situated within it. It is here that Nozick's second principle of appropriate responsiveness situates itself: "The second principle of proportionality says the extent or responses should be in the same ratio as the reality of these very responses themselves" (*The Examined Life* 260). Only by preserving the self do we in fact establish, or rather maintain, a real, articulate relation with the most real. Simply asserting a blanketing identity of each in the universal one proves to be altogether unhelpful. It is

a unity that remains, until materially resolved, contradicted by experience. Against this assertion, the atomistic view retains it valid rights. At least it is able to speak to the existence of real interactions among particulars within an otherwise all consuming universal:

> Dealing with something from the perspective of the Absolute consists merely in declaring that, although one has been speaking of it just now as something definite, yet in the Absolute everything is same, against the full body of articulated cognition, which at least seeks and demands such fulfillment, to palm off its Absolute as the night in which, as the saying goes, all cows are black-this is cognition naively reduced to vacuity (*The Phenomenology of Spirit* 9).

Indeed, as Hegel points out following Kant, the priority in this relation, contrary to the Buddhist, must finally rest on the side of the self; for it is only within the categories of the self that the reality of the real becomes even minimally available. Implicit within Nozick's second principle of proportionality is this recognition, simply stated in other terms. Otherwise than through the mediation of the self, this reality "transcend[s] the very issue of meaning, having obliterated what is the necessary background or presupposition for there to be any issue of meaning at all, namely, the existence of some limits or other"(*The Examined Life* 248). As Adorno notes, it is here that Hegel, by radicalizing the Kantian thesis, turns Kant against Kant himself. The altogether unapproachable noumenal realm, the Kantian "in itself", when confronted by this dialectic of identity, is recognized as already immanent to a consciousness that would be excluded from it. Aware, through its suffering, cognitive and otherwise, of the contradictions it must yet resolve, the self has no choice but to "think against its own thoughts", think beyond the categories it would posit as sufficient:

> Yet the appearance of identity is inherent in thought itself, in its pure form. To think is to identify. Conceptual order is content to screen what thinking seeks to comprehend. The semblance and the truth of thought entwine. The semblance cannot be decreed away, as by avowal of being a being-in-itself outside the totality of cognitive definitions. It is a thesis secretly implied by Kant - and mobilized against him by Hegel - That the transconceptual "initself" is void, being wholly indefinite. Aware that the conceptual totality is mere appearance, I have no way but to break immanently, in its own measure, through the appearance of total identity. Since that totality is structured to accord with logic, however, whose core is the law of the excluded middle, whatever will not fit this principle, whatever differs in quality, comes to be designated as a contradiction...Contradiction is nonidentity under the aspect of identity; the dialectical primary of the principle of contradiction makes the thought of unity the measure of heterogeneity. As the heterogeneous collides with its limit it exceeds itself (*Negative Dialectics* 5).

Finally, although the Buddhist and Humean critiques of the Cartesian self are valid - against which even Kant's concept of identity proves vulnerable - they do not undermine the interpretive wholistic conception

of identity:

> Their arguments do have some force against a view of the self as an unchanging piece, a soul-pellet, but not against a view of the self as an ongoing, changing, and evolving unification of psychological traits, plans, bodily features, etc., whose identity is maintained at the level of the ongoing whole, not by some part that never changes (*The Examined Life* 141).

It is for this reason that the "relational stance" (*The Examined Life* 152) will represent for Nozick the necessary mean between the interpretive failures separating the all too exclusionary egoistic view, the libertarian, from the vacuous absolute stance, the Buddhist or totalitarian. Each simply represents the dialectical antithesis of the other. Only by coherently integrating their respective virtues can we respond to the objections each would raise against its "other".

At the level of the political the same dialectical struggle is played out. On this level, the Absolute standpoint, represented in the Buddhist concern for identity or unity that is purchased at the cost of individual self expression, is taken up as the demand that individuals drown out their identities in a dialectically lifeless, social totality. This totalitarian imperative is of course the obverse side of the libertarian's anarchy of dispersed individuals each "doing their own thing". Thus as Dewey points out, "the term of honor for one has been that of reproach of the other" (*Human Nature and Conduct* 212). In the totalitarian state the moment of individual self-determination is excluded, this for the sake of sustaining a meaning, that like the Buddhist universal substance, is, or has become, external to the individual, but to whose absolute validity he/she must nevertheless surrender him/herself. One can see in this the logic that moves people to join Cults, fundamentalist religious groups, and fascist movements. The acute cases of alienation, all too aware of their radical finitude in liberal society, spatially and temporally, severed from their ties to community through the adversarial quality of social existence, attempt, through identifying themselves with the trans-personal cause to find a sense of purpose, or significant 'weight' for their lives. It is a matter of indifference analytically which group the agent happens to find him/her self in. What remains common is that the agent, paradoxically, is never really allowed to 'find themselves'. It is the absolute validity of the cause alone which has any importance. (Kundera's work *The Unbearable Lightness of Being*, attempts, in non-ideological terms, to address this dialectic of weightlessness, or in Durkheim's terms "anomie", and those meanings that simply overwhelm

the individual with their importance. These are meanings whose value is so absolute that the particular individual cannot but feel radically insufficient to them. As Durkheim's analysis of suicide reminds, such acts take place at either end of this spectrum). Hegel in the following discusses the danger that such an unmediated drive for unity represents:

> This is the freedom of the void, which is raised to the status of an actual shape and passion. If it remains purely theoretical, it becomes in the religious realm the Hindu fanaticism of pure contemplation; but if it turns to actuality, it becomes in the realm of both politics and religion the fanaticism of destruction, demolishing the whole existing social order, eliminating all individuals regarded as suspect by a given order, annihilating any organization which attempts to rise up anew. Only by destroying something does this negative will have a feeling of its own existence. It may well believe that it wills some positive condition, for instance the condition of universal equality or of universal religious life, but it does not in fact will the positive actuality of this condition, for this gives rise to some kind of order, a particularization both of institutions and of individuals; but it is precisely through the annihilation of particularity and of objective determination that the self consciousness of this negative freedom arises (*The Philosophy of Right* 38)

Such a state, driven by the desire for the unity libertarianism was unable to provide the necessary conditions for, demands, like the Buddhist self, the 'death', or radical effacement of the particular individual as individual. Individuals must exclude, as the condition necessary to preserve the blanketing coherence of the social identity, the moment of individual difference. Having denied the principle of individual identity, each particular life becomes epistemically indistinguishable from any other. In other words, the principle social of recognition rests upon the state's " paint[ing] its gray in gray" upon the manifold diversity it is otherwise unable to take possession of (*Philosophy of Right* 23). The self, qua self, has, and can have, no true validity.

It is in this context that Hegel, like Nozick, will, against the totalitarian, acknowledge the validity of the libertarian's principle of the right to personal property. The injunction against personal property is not simply a contingent aspect of the repression, but represents its essential quality. It is through objectifying myself in my property that I, as a specific individual, establish for myself, as Hegel says, "an external sphere of existence" (*The Philosophy of Right* 120). In totalitarian states, such objectifying of selfhood becomes severely restricted. Libertarians have, Hegel points out, understood that in property one must first include that property one has in one's own person. In totalitarian regimes the individual simply has no inalienable external sphere of existence - not even in oneself. Thus the ban on private property in

the totalitarian state represents the nullity of the individual as such. Individual difference is seen, as the Orwellian picture portrays, as intrinsically threatening to an identity that has, as with libertarianism, rejected the role of mediation with its opposite. The totalitarian social form maintains, as the Buddhist suggests, an absolute indifference to the content it purportedly unifies. The above problematic represents for Hegel the unmediated struggle between a dialectically lifeless social form, the blanketing unity totalitarianism would impose, and its antithesis, its content, the dispersed aggregate of the Hobbesian state of nature. This is, then, the simple separation of substance from its elements. Each for Hegel is as abstract and one sided as the other:

> But just as there is an empty breadth, so too there is an empty depth; and just as there is an extension of substance that pours forth as a finite multiplicity without the force to hold the multiplicity together [i.e. the libertarian state], so there is an intensity without content, one that holds itself in as sheer force without spread [i.e. totalitarianism], and is in no way distinguishable from superficiality. The power of Spirit is only as great as its expression, its depth only as deep as it dares to spread out and lose itself in its exposition (*Phenomenology of Spirit* 6).

Hegel wishes to impress upon us the necessity for each of these two moments to become mediated through a responsible relation with its opposite. In this way, the lifeless 'Substance' of Buddhism would have to hold itself responsible for integrating the aspect of difference into its otherwise inert identity. Substance in this way becomes dialectically responsive or alive. Hegel uses the concept of spirit to signify precisely this aspect of dialectical movement or 'life' that substance must express. Thus contrary to both the libertarian and the totalitarian, this static, mutually excluding opposition that each represents to its other, is revealed to be a false one-sidedness. With our discussion of the turn to interpretive holism in mind, we can see that just as the fact and paradigm in which it is situated are mutually implicated, so here, both moments are revealed as mutually dependent upon one another for their meaning, and, in Hegel's words, represent "moments of an organic unity in which they not only do not conflict, but in which each is as necessary as the other" (*Phenomenology of Spirit* 22).

Nozick resolves this false opposition in the same dialectical or relational fashion as Hegel. Between the opposed stances of the "egoistic" position (libertarianism) and the "absolute" stance (the totalitarian) lies the third, mediating, relational standpoint (*The Examined Life* 152). Both Hegel and Nozick make use of the metaphor of organic unity to describe this dialectical 'interpenetrating of

opposites'. This resolution, in principle unavailable to the early libertarian Nozick, becomes inscribed in Nozick's subsequent relational theory of value. The later Nozick asserts that value is a matter of the internally unified coherence of a thing (*The Examined Life* 167). Such value, necessarily intrinsic, relates to something because it need not refer beyond itself for further grounds of meaning or external cause for itself. Unlike the dispersed atom, which necessarily raises an infinite regress when questioned as to its causation or meaning, continuing at each point to lead to ever further grounds for itself, something possessing intrinsic value is a complete, self sufficient, self-unifying totality. It therefore need not reach to anything beyond itself for further grounds for itself. With this concept of intrinsic value Nozick provides us with a standard against which the value of a state can be tested. If value, as Hegel and Nozick assert, can be understood only in terms of the degree of "organic unity" (*Philosophical Explanations* 422) a thing possesses we have a non-ideological ground upon which we can condemn the *repression* of difference that the totalitarian frame-work relies upon to maintain its integrity, and can also, with equal warrant, criticize the alienating, divisive effects the libertarian, or in Nozick's later terms, the egoistic standpoint has upon social existence. In the following Nozick illustrates this principle in purely formal terms. Its relation to our discussion of political regimes is however immediately apparent:

> If the basic dimension of intrinsic value is degree of organic unity, then a conglomerate or aggregate, since it itself has no organic unity, cannot have greater intrinsic value than the total had by its parts. No new intrinsic value is introduced by agglomeration...New value arises only in wholes, in totalities. The value of a whole may be greater than the sum of the values of its parts (*Philosophical Explanations* 423).

It is interesting to note here, in support of my reading of Nozick, that he continues to view the value of the libertarian state as simply reducible to the value of its constituent parts. As a libertarian, as we have seen, he had explicitly denied the possibility that the state could come to possess any additional value. We thus have further confirmation for our view that he has made a complete interpretive gestalt switch. This does not mean however that having abandoned libertarianism we are for this reason left lacking in the theoretical resources to critique the absolute standpoint, and its political correlate the totalitarian regime: "[T]he life of one absorbing...contradiction will be less valuable because less unified"(*Philosophical Explanations* 422). In its political expression the same absence of mediating difference, or coherently integrating diversity, into its unity will be the source of its low intrinsic value:

> Is the most valuable society a tightly organized centrally controlled hierarchical society of fixed hereditary status, termed by some theorists an "organic society"? Although it would have a high degree of unity, it would not encompass the same vast diversity as a free and open society. A far-flung system of voluntary cooperation unifies diverse parts in an intricate structure of changing equilibria, and also unifies these parts in a way that takes account of their degree of organic unity. Enlisting a person's voluntary cooperation or participation takes account of his degree of organic unity to a greater extent than commanding him (*Philosophical Explanations* 421).

In this view Nozick receives support from John Dewey, who, when discussing the value or "greatness" of a work of art, leans upon the same interpretive wholistic criterion: "But the objective measure of greatness is precisely the variety and scope of factors which, in being rhythmic each to each, still cumulatively conserve and promote one another" (*Art as Experience* 171). In political terms, the relational stance requires that there be a space within the synthesizing bounds of the state preserved, and necessarily so, for the rights of the individual. The state, as should be clear from our discussion of Nozick's "closest continuer theory of identity", can have the same immanent unifying telos as the self. Simply by making the appropriate changes to Nozick's discussion of personal identity of the self necessary to discuss identity at the level of the political we can see how the valuable state will avoid libertarian charges of imposing an external meaning upon individuals. Nozick's intrinsically valuable state will present "an ongoing, changing, and evolving unification of [individual (substituted for psychological)] traits , plans, [institutional (substituted for bodily features)] features, etc., whose identity is maintained at the level of the ongoing whole, not by some part that never changes" (*The Examined Life* 165). The pervading (intrinsically valuable) unity is not then, an external imposition of regulative order, but is an internal, constitutive unity in which neither must be sacrificed for the sake of the other. The libertarian accusation of totalitarianism fails to convict:

> Note that a regimented society of individuals will not have the highest degree of organic unity or value. It will be less valuable than a free society wherein the major relations of people are voluntarily undertaken and modified in response to the completely interrelated and ever shifting equilibria (*The Examined Life* 165).

The dialectical life or spirit embodied in the valuable state ensures that there is no abstract separation of social form or institutional order from the evolving needs of the individuals within its boundaries. Each moment remains mediated through the other. Neither exists, as the libertarian and totalitarian imagine, simply for the sake of the other. The validity of each depends upon its relation to its opposite:

Concrete freedom requires that personal individuality and its particular interests should reach their full development and gain recognition of their right for itself..., and also that they should, on the one hand, pass over of their own accord into the interests of the universal [life of the state] and on the other, knowingly and willingly acknowledge this universal interest even as their own substantial spirit, and actively pursue it as their own end (*The Philosophy of Right* 282).

As we have seen, this social order is one that is able to reconcile what for the libertarian and the totalitarian must necessarily remain irreconcilable opposites. The necessary condition for Nozick to have done so is that he abandon the atomistic epistemology and follow Hegel's turn to interpretive holism. As Hegel makes clear, we could not get here, to the valuable, internally regulated state, from there, the libertarian aggregate of isolated individuals:

Thus, there are always only two possible viewpoints in the ethical realm: either one starts from substantiality [i.e. unity], or one proceeds atomistically and moves upward from the basis of individuality. This latter viewpoint excludes spirit [a "We" in Nozick's terms, an identity that is, ontologically more than a contractual association of intrinsically autonomous individuals], because it leads only to an aggregation, whereas spirit is not something individual but the unity of the individual and the universal (*The Philosophy of Right* 197).

This interpretive turn does however mean, as I have suggested earlier, that the libertarian side constraints are not the morally inviolable rights the early Nozick took them to be. This creates, as those familiar with Nozick's works are sure to recognize, a troubling tension. As we saw earlier, the validity of individual rights rested upon a deduction from premises that we are no longer theoretically constrained to accept. The question that the libertarian would then ask is what content can we give to individual rights, and from what theoretically respectable ground, if not from the deduction libertarianism gives, do they originate? In a moment of apparent theoretical inconsistency, Nozick seems to preserve in his later works a priority of place for the libertarian side constraints. As the quote below suggests, the later Nozick appears to continue to use libertarian rights as the point of depature for his moral theory. To do so would, as Hegel asserts, prevent Nozick from arriving at his current discursive position, a position that allows, in certain limited instances, libertarian rights to be over-ridden[16]. Indeed the first chapter of our work was intended to

[16] Nozick structures the competing claims of individual rights and communal interest in terms of the principle of "Minimum Mutilation" (*The Examined Life* 212). This principle allows society to "diverge" from the requirements of the ethic of respect, inviolable for the libertarian, only if the gain in ethical responsiveness outweighs the cost to the ethic of respect. As our discussion of symbolic utility should remind us, this gain cannot be reduced to an expected utility calculation. To sell these rights short any time it may be momentarily socially advantageous, would make the existence of the ethic of respect

establish the necessity of rejecting the libertarian moral premises if Nozick was to move, as he later found he must, beyond the narrow confines of the night watchman state. In the Hegelian thesis, the content of our ethical responsibilities becomes established through the dialectical struggle for identity. Agents come to assert their autonomy, eventually claiming it as their right, against others who would presume to reduce them to the status of mere means. This struggle ends only when there is a complete reciprocity of respect. The individual must, as Kant and the libertarians argued, be respected as an end in itself . Anything short of this mutuality of recognition will prove to be, in Nozick's later terms, an *inadequate response* to the reality that the other manifests. In Hegelian terms, categories that reduce selves, who, as a necessary presupposition, are self synthesizing, or are, in other words, 'for themselves', to mere use values will prove to be insufficient to the content to which they purportedly speak. The only means by which this contradiction between concept and its object can be resolved is through adjusting the concept, making it adequate, in the logical sense, to its 'object'. For selves, this process of adjustment will reach a point of interpretive stability only when we acknowledge that the other is like oneself also a self. For Hegel, a concept that is inadequate to its content will be met with 'resistance'. The cognitive tension this sets up will make the proposed conceptual resolution unstable. Only by responding to the reality in a more responsible fashion is the violence that the concept perpetrates upon the resistant content finally resolved. In this dialectic of identity the violence perpetrated and the resistance met with are not confined to the

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radically insecure. The symbolic meaning we attach to the continued respect for individual rights must be factored in any such calculation. This principle represents an elaboration of the "Balancing Structure" Nozick uses to structure moral decisions in *Philosophical Explanations* (479). In turn, we can view this structure as a theoretical extension of The Closest Continuer Theory. Unlike the Intrinsic Abstract Conception, the moral value of an act, whether it is a good act or a bad one, is *not* an intrinsic feature of the act itself. One must look at the act in context and determine whether the "right-making features" outweigh its "wrong-making features", if it does the action is permissible, if not it is impermissible. This implies that there is no interpretively neutral algorithm that we can use to make moral judgements. What features we will place is what column, and with what weight will be determined by the meaning these features have within our social contexts. Nozick develops this line of thought along established Closest Relative theoretical lines. One may not do an act, even if the right-making features outweighs its wrong-making ones if there is an alternative that affords us the same amount of benefit without incurring as much ethical cost. This principle would apply to the alternative, if there is one, as well. Nozick, in the final elaboration of this balancing structure, argues that an act is impermissible if, in relation to an alternative, the extra wrongness it includes outweighs its additional rightness. In other words, if there is an alternative whose right making features, though *less* than its alternatives, incurs much less debt on the wrong-making side (*Philosophical Explanations* 488). It is to this principle that we must understand Nozick appealing in the concept of minimum mutilation.

conceptual order; or rather, the flesh and blood cycle of violence and resistance are simply the material correlate of this discursive repression. Nozick appears, contrary to Hegel, to begin however from a position assuming individual autonomy:

> Ethics is not a single structure; it is built in four layers. The first layer, the ethic of respect, mandates respecting another adult person's life and autonomy...its rules and principles restrict interference with the person's domain of choice, forbid murder or enslavement, and issue in a more general list of rights to be respected. The second layer, the ethic of responsiveness mandates acting in a way that is responsive to the other people's reality and value, a way that takes account of their reality and is intrinsically contoured to it...Which takes precedence, respect or responsiveness? Which is to be followed when the two diverge? Responsiveness is the higher layer, yet rests upon the layer of respect (*The Examined Life* 212).

Once within this framework of individual rights, we are, almost as an after-thought, required to retain a dialectical openness for the kind of ethical responsiveness that the Hegelian dialectic is predicated on. This would then raise the question of what is it about the agent we are respecting, if not attributes actually present in the self to which we respond? If there were some quality that selves possessed that would entitle them to respect, then we, as followers of the ethic of responsiveness, would be obliged to respond appropriately to it, i.e. respect it. This is of course the Hegelian thesis in other terms. Why then does Nozick feel the need to supplement the ethic of responsiveness?

This discussion appears, then, to leave the difference between the ethic of responsiveness and that of respect unresolved, reproducing in other words, the difference between the interpretive wholistic account of ethical agency and that required by the intrinsic abstract ordering concept. The two positions, irreconcilable on these terms, become set once again over against each other. Contrary to initial appearances and Nozick's confusing manner of expression, this is emphatically not the case. For the later Nozick, as for Hegel, the ethic of respect is devoured by the ethic of responsibility. In other words, we are not left with two antagonistic ethics, each attempting to assert its priority over the other. Rather, the content preserved in the ethic of respect is a content that is realized through the ethic of responsiveness. This content is then not the a-historical given it is for the libertarian or Kantian, but represents for both Hegel and Nozick the achievement of a dialectical process of development. One need only take note of the strong allusion to temporality in the following passage from Nozick. It is, in short, through a process of ever more adequate responses to the reality of the other that the ethical content presented in the ethic of

respect is grounded:

It can *come* to be seen that recognizing such a domain of autonomy constitutes responsiveness to a value-seeking self, and we can see this dawning realization as moral progress, as more fully developed moral insight. (*Philosophical Explanations* 503)

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Nozick, like Hegel, will also find fault in the Kantian grounding of moral duty, ahistorically, in our rational natures. This, Nozick argues, fails to acknowledge the ethical 'pull' that other selves come to exert upon us. Nozick's point, reproducing the logic of Hegel's "Master Slave Dialectic", seems to be that by locating the moral duty within our rational faculties, it leaves the question open as to whether we will respect our own rational natures. As we have seen, for Kant our faculties represent a house divided. To make ethical responsiveness contingent upon our choice as to which amongst our conflicting faculties we will respond to fails to recognize the fact that *others will not allow us to not recognize them*:

The worry about the described Kantian structuring wherein ethics originates in a structuring of the self, is that it makes the ethical pull look too little like a pull from him [i.e. the other], and too much like a push from me...I believe this criticism applies to Kant's ethical theory, as well, in which the moral law somehow stems from my rational nature and makes a claim upon me. Although this claim concerns the other person, and even might be described as a claim he makes [as a rational being or end in himself], at the second floor, it does not stem from him at the ground floor. Kant's view makes the moral law concerning him arise from me in a way that does not adequately recognize the depth of the moral pull from him. I do not say that the moral pull is so deep that no explanation of it can be offered, but the explanation of the moral pull he exerts must not place me at a level more fundamental than his (*Philosophical Explanations* 550).

As the last sentence suggests, it is to a quality, or qualities, in the other that requires, or calls forth, the ethical response from me. It is to these qualities that my response can be shown to be appropriate or inappropriate. The test of adequacy, as the logic of identity demands, is simply that the concept does not meet resistance from the 'object'. The task then remains for Nozick to specify to which qualities the ethical response is alone appropriate. Nozick points out that it is not from everything that we feel this pull. "[T]here is something about people, some characteristic or property of theirs, in virtue of which they are owed moral behavior" (*Philosophical Explanations* 451). This quality will, as for Hegel, be that quality through which we, as agents, cease to be mere means and come to be, essentially, for ourselves. Selves, as we have seen, are unique in that we, in our self synthesizing come to possess our selves in a manner that other beings do not:

[T]he crucial characteristic in others that I feel gives rise to stringent moral claims upon me is "being an

I", that is, having the special mode of reflexive consciousness of self which only an I, only a self, has. Something's being a self, now we can say someone's being one, seems to be crucial to our having to treat it in certain morally respectful ways (*Philosophical Explanations* 453).

This characteristic, as the above quote suggests, relates back to our earlier discussion of rationality and the autonomy presupposed in its possession. We, in unifying the otherwise dispersed moments of our lives, do not remain 'external to ourselves', each moment juxtaposed to, and alienated from, all others, but possess these moments in our self reflexive acts of awareness. As Hegel notes in the following, only through a dialectical process of responding to the other can we see the critical necessity in the rights that the ethic of respect would simply assert. To begin with an arbitrarily stipulated concept of rights would leave us with the Platonic problematic. We, in short, might agree that there are rights, although even this is uncertain, and yet differ dramatically in our view as to what content to fill them in with. To what objective standard could we appeal in such cases? The ethic of responsiveness is able to bypass this problem entirely by making the ethical contradiction in treating others as less than selves immanent to ourselves. This follows from our discussion and subsequent rejection of the absolute standpoint. It was a position, we recall, that attempted to dispense with the mediation of the subject, for the sake of a 'pure experience' of absolute reality. Following Kant's transcendental turn, Hegel and Nozick recognize the we must, to avoid the vacuity of the absolute stand-point, reduce the reality of the real to our categories. As argued above, the reductive quality of our categories is experienced, contrary to Kant, immanently:

> But the deduction of the definition may perhaps be reached by means of etymology, or chiefly by abstraction from particular cases, so that it is ultimately based on the feelings and ideas of human beings. The correctness of the definition is then made to depend on its agreement with prevailing ideas. This method leaves out of account what alone is essential to science - with regard to content, *the necessity of the thing* in and for itself (in this case, of right), and with regard to form, the nature of the concept. In philosophical cognition, on the other hand, the chief concern is the *necessity* of a concept, and the route by which it has become a *result* [is] its proof and deduction. (*The Philosophy of Right* 27).

This revised reading of Nozick's ethics, if it can be sustained, would then fall agreeably into line with his discussion of the relational stance. It was the adoption of this stance, we recall, that allowed Nozick to coherently appropriate the insights of the two mutually exclusive stances. And we saw further that the ethic of responsiveness was logically entailed by this interpretive turn. By way of collateral support for this reading, asserting that the ethic of respect is embedded in Nozick's ethic of responsibility and cannot then serve as a point of departure, we can appeal to the classification that Nozick gives in *Philosophical*

Explanations:

[K]ant's derivation of the moral content of obligation from the form of morality is an intrinsic theory; whereas Hegel's view that only obligations embodied in a particular historical community have content is relational (*Philosophical Explanations* 661).

What this statement establishes is that that the ethic of responsiveness is recognized by Nozick himself to be a product of the relational view and that the ethic of respect, unless deriving from this stance, is a product of the atomistic world view. If these atomistic premises prove vulnerable, as they in fact are, then of course the rights derived from them are no longer binding. This would then leave us in an ethical void. Nozick however, by situating respect within the relational view is able to preserve, as the interpretive wholistic view demands, a place for individual autonomy[17]:

We can locate the place of rights within the ethics of responsiveness to value, by noticing that (generally) a right is something for which one can demand or enforce compliance...On this view, my right that you behave in a certain way toward me would be a function of how you ought to behave toward me and of how others (including me) ought to behave toward you. My rights are constituted by the treatment you ought to give me that others ought to demand or enforce of you-or at least, it is not the case that they ought not to demand it (*Philosophical Explanations* 499).

In Hegel's terms, the dialectic of identity, Nozick's Ethic of Responsiveness, ends, as the discussion of Huckelberry Finn and Jim in Appendix II suggests, in a mutuality of recognition (Nozick's "Ethic of Respect"): "they *recognize* themselves as *mutually recognizing* one another" (*Phenomenology of Spirit* 112). The virtue of Hegel's formulation is in illuminating the reciprocally reflexive quality of this relation. Each recognizes the other as recognizing himself. In this fashion Huck exemplifies how the ethic of responsiveness can move us beyond entrenched social meanings, meanings that no longer prove to be socially useful but on the contrary have become sources of stagnation and repression:

Sometimes the breaking of frame will be a direct action, violating a previous framework of expectations that defined which actions were admissible or were allowed to occur, but which excluded the most functional actions or even effective ones (*The Examined Life* 43).

[17] See Appendix II for a literary example of how this "Ethic of Responsiveness" can subvert entrenched, and repressive meanings, creating the social space within the community to allow for the repressed dignity of the socially excluded to be finally acknowledged.

Conclusion: From Modernist Unity To Post-Modern Fracture

As we have seen, it is only in the social context that the self realizes itself. The institutional structures of society are the conditions without which the self could not be a self in any meaningful sense. It is important then to recognize that because the prevailing logic of the social establishes the objective rules according to which events are to be schematized, and as the previous quote suggests, 'breaking frame' will, necessarily, be viewed as a morally culpable violation of the shared discursive structure that our socially integrated individual agency presupposes. In our individual agency we depend on others to interpret events under the same categories that we do. This as we have seen is a necessary condition for the stable, though evolving, identity of society:

> One man's perceptions communicated in reports afford reliable signs; he is a social asset. Another man's perceptions yield reports that are confusing and harmful; he is a social liability...State of mind, in other words, means a practical attitude or capacity of the individual judged from the standpoint of definite social use and results. So far as a person's way of telling, observing and imagining and stating things are not connected with social consequences, so far they have no more to do with truth or falsity than his dreams or reveries (*Human Nature and Conduct* 14).

The only way to escape the status of deviant for subsuming events under inappropriate, and thus socially irresponsible, categories is to establish through one's agency, new concepts, determined through an adjustment in perceptual weightings, into accepted social currency. This requires that others become convinced of the social value in being attuned to the perceptual experiences that one wishes to discursively inscribe. If one cannot do this, one must at least show, in venturing the desired adjustment, that central values, beliefs, and normative structures - and the practices in which these find material expression - will not be seriously undermined. The presence and relative stability of shared symbolic meaning is essential to the continuing coherence of social life. Representing social presuppositions - the means by which individuals are able to orient their lives - these beliefs, and the practices in which they are embedded, are the social correlate of the interpretive ballast that the evolving self must, on pain of psychic dispersion, maintain. As such, these practices cannot all be open to serious doubt. To place them all at issue would leave society in a place of radical interpretive instability. Just as individuals must maintain, in their own

evolving identities, a context of stability against which subsequent change can meaningfully take place, society cannot, or rather will not, open itself up to any and all interpretive challenges - too many people will have too much invested in certain social practices. These practices are nothing less than the historically situated, material presuppositions of their freedom. (Rejected then is the abstract view of freedom which defines freedom simply as the absence of restriction. As earlier arguments have suggested, individual socially-relative projects of self-definition imply, in the strong transcendental deductive sense, the presence of very specific social structures.) As a matter of social fact, more people will have more invested in some meanings, and the practices in which they are inscribed, than in others. This does not imply, then, that the location of dissent is clearly defined, and that there is a stable central content to which all concede and only an external penumbra of contention. As earlier arguments suggest, this is not how it works within the psychic life of the individual either. Experiences frequently, one might venture to say constantly, clash beneath the surface of calm integration; one brief desire or fleeting experience vainly pulls against the inertia of established direction. This experience of internal conflict is as continual as it is non-threatening. The force that such minor challenges exert is insufficient to condition significant change. This is true unless other experiences are recruited in the struggle and can feed strategically into the cause, then the desire, once jailed is released, the experience once lost to the self is recovered. What this process speaks to, in the case of social struggle, as earlier discussion argues, is the presence of a relatively stable social game or logical space. Within that game certain moves will simply have a value and strategic significance that others lack. More will ride on some moves than others. This mirrors our investigation of individual identity and the interpretive ballast it presupposes. Analogous to that discussion, society, though not a pre-constituted integrity, does have its certain, generally accepted, standards of merit. 'Common sense' is the faculty that allows one to grasp these standards. These standards, contrary to the common perception of them as invariant examples of good judgement, are continually changing. Interpretive readjustment, changes in the relative values of the meanings in play, the result of subsequent social experience, is ongoing. This can, then, make the principled adherence to what once passed as common sense counter-productive. In the case of the individual, significant new experiences will resonate with the relatively coherent arrangement of meanings within one's psychic

economy and occasionally will call for major realignments in established values. This then requires that the individual make practical changes to their world, giving this change in identity a degree of material expression. The same is true, *mutatis mutandis*, of the shared logical space in which individuals move about. Interpretive struggle can occur at all levels with no meaning exempt from present or future challenge. (What is questioned here, then, is the suggested adequacy of structuralist analysis resolutions to social conflict; though, at times, such analysis may provide convenient, helpful abstractions.) The Hegelian universal 'We', the historically unified 'spirit' of an age, is thus replaced by a picture of materially situated, socially engaged agents struggling within the interpretive boundaries that both orient them, serving as initial points of departure, and limit them in the kinds of discursive moves they can make. The interested agency of these individuals, encountering interpretive restrictions, opportunities, and interesting plays of meaning, alters established relationships and stretch the prevailing social structures in varying and often contending directions. Rejecting the Hegelian 'Geist' as an abstraction, we note simply that unless there is a complete fracturing of social structures through the various heterogeneous 'counter-practices' at all level and locations - and nothing of significance left in relative immunity from them - there will continue to be the consensus and broad based support necessary for the maintenance of certain central practices. This is not to say, however, that through subsequent experience and challenge these practices will not lose their pride of place to other meanings.

The above discussion although analytically useful, might, itself, be criticized by the Hegelian for making the process of social change appear more self conscious than it really is. It is only when tensions between a group, not united initially in common cause, or shared sense of identity, whose desires are implicitly repressed by prevailing social boundaries, and those who see that society cannot stretch its institutional and moral fabric any further to accommodate these deviant desires unless it wishes, also, to change the very meaning of these structures, or significant portions thereof, do conflicts become acute. Conservatives argue that the social cost is simply too great. That is, to make this accommodation, which according to the prevailing social logic is intrinsically unworthy of such social inscription, 'we' will have to give up structures that are of much more intrinsic value[18]. Of course they will generally be proven right.

[18] The 'we' as used here is an example of convenient structuralist abstraction. From the discussion above

It is against the standards residing in the prevailing logic that these deviant desires will, necessarily, be tested. Prior to this stage of conscious conflict, there is merely repressed, often displaced, desire in tension with a structure of values assumed to be objective in the universal sense. The reason why there is no shared identity presented by the group of those whose actions, if only at first implicitly, similarly work to stretch social meanings to allow for their felt need for expression, is because the prevailing logic of the social does not provide them with the discursive space necessary for the simple assumption of a stable, socially acknowledged, pre-existing subject position[19].

The political realm had marked the location where socially situated agents protested against the presumed adequacy of the categories through which they were socially digested. Politics, for Hegel, although standing in apparent opposition to truth was the field in which social existence was progressively rationalized. The institutional structures now in place, including amongst them the system of values and meanings that our personal meanings presuppose as their condition of intelligibility, are those that the free, 'self -actualized' subject presupposes. Thus, for Hegel, the contradictions and oppositions that defined the political have been fully and finally resolved[20]. Finite, socially situated understanding has become the equivalent of universal, transcendental understanding. The rational potential of the political has, now, been exhausted. For Hegel, the contradictions between concept and object, the difference between the Kantian "thing-in-itself", or Plato's forms, and our finite understanding has been fully resolved. With this, the problem of 'externality' has been answered. The goal that philosophy set

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it should be clear that my use is not intended to indicate a materially detached, supervenening social spirit. The 'we', as I intend it, is short hand for those people who are united in their interest in preserving the particular social structure at issue. Indeed, they are those for whom the necessity of this social convention is all but self-evident. Membership in this 'committee', as I see it, changes almost as frequently as the issues.

[19] What the dialectic we traced in Appendix II spoke to was a need on part the part of an agent, Jim, to establish a social identity that was equal to himself, a subject position within society that would provide him with the opportunity to exhaust his expressive needs. We see this process mirrored, less dramatically of course, in the process whereby we in our lives 'become who we are', assume identities, or social roles, that provide us with the conditions necessary to utilize our potential, satisfy our interests, and fulfill our desires. What drives us from one such form to another is the attempt to assume a social identity that is equal to oneself. Unlike Jim's struggle, this process is generally socially unchallenging in that the forms pre-exist us, all we need do is assume them.

[20] The dialectical balance achieved at the end of *Huckelberry Finn* is where the Hegelian philosophy would leave us. The categories through which agents are now socially subsumed are, or rather have become, fully rational - all essential mediations have thus, at least for Hegel, already taken place.

originally for itself has been realized. Truth has devoured politics. In Hegel's terms "what is rational is actual", and reciprocally, "what is actual is rational" (*Philosophy of Right* 20). We see in Hegel's formulation the end, in the sense of fulfillment, of philosophy. That end, perhaps best articulated in the Kantian formulation, was to impose the form that reason demands upon a morally recalcitrant world. The question we must ask ourselves, one that Nozick himself asks, perhaps marking his departure, finally, from Hegel, is how stable is the dialectical balance we have established? Is there no possibility of tension arising between my expressive needs, the system of weightings that constitutes my identity, and the possible subject positions available to me? If so, must this tension always be the mark of my irrationality? For Hegel, taking as his fundamental point of departure the radicalized Fichtean transcendental unity of the subject, the self-sufficiency that history finally achieves is a result philosophy necessarily presupposes:

> But the goal is as necessarily fixed for knowledge as the serial progression; it is the point where knowledge no longer needs to go beyond itself, where knowledge finds itself, where Notion corresponds to object and object to Notion. Hence the progress towards this goal is also unhalting, and short of it no satisfaction is to be found at any of the stations on the way (*The Phenomenology of Spirit* 51).

The postulated necessity of absolute closure is for Hegel guaranteed by the foundational role this unity of consciousness has; whose macro-logical equivalent, the unity of society, is represented in the concept of "Spirit". Although we apparently begin with two, mutually independent principles, the subject and the world that stands over against it, only the first principle has any real validity. As we saw in our discussion of Kant, the in itself of the world is an in itself that exists for consciousness. The reality of the real is a reality that answers to the categories of the subject and thus its presumed independence falls inside the unity of the subject. As for Kant, reason, as the principle of unity, cannot fall into contradiction with itself. Indeed, this 'law' has even greater force than it had for Kant. Hegel's reason is, as we have seen, constitutive of its reality, not merely a regulative, external addition. Thus through the dialectical process of mediation, we are resolved of any dependence upon an 'other of reason', free from the fear that conflict may, as for Kant, continue *ad infinitum*. Ethical harmony is also established through the same principle of identity. Reason, really the radicalized transcendental unity of apperception, a unity that knows itself as the principle of all being, simply cannot come into contradiction with itself, it is an identity absolutely equal to itself. Again, this unity *is* the self, not an external other as it was for Kant, this prevents the self,

or its universal correlate, from internal opposition.

For Hegel, with the writing of the *Phenomenology*, all the essential mediations have already taken place. Contrary to certain readings, Hegel does not, nor cannot, leave history 'open ended'. The *Phenomenology's* condition of possibility, and equally its principle of validity, is that it has access to a view of history not previously available. In short, it must possess the transcendental view if it is to have the insight it claims. The only means by which universal Reason can assume the God's eye view, having barred, with Kant the Platonic method, and with Hegel, Kant's ahistoricism, is to follow the mediations of Spirit immanently to its end. Spirit, by returning to itself, appropriating what was seemingly other into the coherent unity of the self, is now its own self-grounding ground. Although consciousness has always remained immanent, it has become, also, transcendent, possessing the standpoint from which to judge all. If the *Phenomenology* does possess this standpoint, it condemns, *a priori*, all subsequent forms of resistance. If the actual is indeed fully rational, as Hegel argues, then how can resistance to the law it prescribes be anything other than a sign of irrationality and thus intrinsically worthy of institutional repression? (One can see in this equation the logic behind the 're-education' camp.) Nozick appears to be of two minds on this issue of interpretive closure. In his chapter "The Zigzag of Politics" (*The Examined Life* 286) Nozick seems to recognize that the meanings, values, and purposes that give shape to our social lives will continue to be contested, that even the idea that there could be an end to this struggle over meaning is quixotic. This opinion is furthered by Nozick's discussion of the "ties of concern and solidarity" for one's fellow citizens. Given that our responses are to the reality, the "intensity and extensive[ness]" of these ties, there is, he argues, no principled boundaries that can limit how these feelings come to be socially inscribed (*The Examined Life* 292). In short, ethical principles are constituted relationally, they remain socially situated and cannot therefore give rise to intrinsically inviolable side constraints, constraints that we must first respect before determining what scope, if any, is left to our responses. In his discussion of "ethical harmony", which requires, as does Hegel's dialectic, that there be an exact balance between the ethical push that is exerted by me, the recognition I require from you, and the ethical pull from you, your own sense of value that leads you to respond to me in a way you find appropriate, Nozick seems to concede that such a harmony is radically unstable. Unlike Hegel, Nozick

does not believe that this ethical harmony is "guaranteed" (*Philosophical Explanations* 401). If there is no such equality of conceptions, then one must, with Adorno, see that there is an amount of interpretive violence being perpetrated upon one of us by the other. If your concept of me is not completely "contoured", in Nozick's terms, to my reality, in a manner that *I find fully adequate*, then I cannot but feel that the form under which I am socially subsumed is a reductive imposition. This reduction I will necessarily feel, to some degree or other, as a violence perpetrated against me, a failure on your part to acknowledge that the self that I 'truly' am. Until there is this balance this dialectical instability will lead to resistance on my part. The absolute social synthesis that Hegel imagines will occur only when each person is able to fully 'find themselves' in an available subject position. Hegel, of course, believes that such a balance has been achieved and that its stability is for this reason assured. Again, for Hegel, the forms through which particular individuals are socially subsumed are intrinsically rational. Thus if one is, for some reason or other, unable or unwilling to find fulfillment through them, such a subject is simply being irrational. Rather than recognizing that these forms are presupposed in the very fact of their freedom, they chose to indulge their particularities of interest to the detriment of the social order.

Although wanting a dialectical openness that could allow for responsive changes in social meaning, Nozick seems also to want to insulate the structure of rights present within the liberal democratic state against the dialectical turns that might move to change the social meanings, values, etc. upon which such a structure is based (*The Examined Life* 296). As we have seen however, these rights are grounded in the ethic of responsiveness. Once 'decided', in other words, Nozick cannot then entrench them in some a-historical realm. Although holding a central place within our social self-understanding, and thus exerting an extremely strong gravitational pull upon us toward their preservation, they are nevertheless susceptible to the same interpretive change to which other meanings are open. Nozick cannot then artificially separate this block of meaning from others that they are more or less directly implicated in. As a good interpretive holist, he must acknowledge that changes in one social sphere are conditioned by, and in turn condition, to a greater or lesser extent, changes in the identity or meaning of other spheres. 'Affirmative action' programs demonstrate this principle of the reciprocal interdependence of meaning. In order to create the discursive space necessary for such a meaning, our conception of rights and identity

must also undergo a change in their relative values. Indeed, as was suggested in the first chapter, what prevents our acceptance of affirmative action as a socially legitimate response to inequity is a conception of identity that excludes this meaning from taking on the appearance of coherence. This conclusion follows unless Nozick does in fact agree with Hegel, agree that history has indeed ended. This would mean that the dialectical openness Nozick now preserves would be foreclosed. If this is the direction Nozick wishes to take, however, it becomes susceptible to the critiques the post-modernist raises against interpretive closure. With these theorists, I believe that such closure is guilty of ideological reification. They would be charged with the same crime for which Hegel had indicted Kant, the forcing of reality into dialectically lifeless forms. I believe that in this matter Nozick can be found sitting on the interpretive fence. Although he has expressed his doubts as to whether this Hegelian synthesis, the universal mediation of all *meaningful* difference into a complete, self-sufficient totality is possible, even as an ideal, he still wants to entrench the liberal democratic framework. (Indeed the issue can be centered around who gets to determine, or what interests are, constitutive of 'meaningful difference'.) We must therefore decide the issue for Nozick. Are the concepts through which selves are mediated fully rational? Must one accept the Hegelian logic as universal in its application? Nozick in the following appears to concur with many post-modernist critics in arguing that the Hegelian thesis, that all difference can ultimately be canceled, is an onto-theological hope that Hegel should have been more critical of: "The Hegelian story is the story of the maximum organic unity, the maximum possible value; this raises the worry...that it is too good to be true" (*Philosophical Explanations* 421).

The implications of this issue are best illuminated when we approach the question of justice. Nozick appears, at least on one reading, to follow Kant in arguing that the difference that makes a difference between justice and revenge is the impersonal quality exhibited in the former's transcendental determination. Rather than schematizing the morally interesting event in terms of one's personal biases, or rather, constructing perceptual experience into a morally interesting event, one assumes the appropriate measure of critical distance from it, one assumes the universal perspective that is reason:

> The punishment is contoured to the nature of the wrong, to its magnitude and character, so that punishment not only is responsive to correct values but also is responsive (negatively) to the wrong qua wrong. The morally inspiring figure who changes the wrongdoer does not contour his transforming behavior to the features of the wrong act, though his behavior may be triggered by the act's wrongness as

wrongness. In presenting an alternative, an inspiring example of right or saintly behavior, he is not being responsive to the specific wrongness. As a right action is done because it is right, connecting with and responding to correct values qua correct values, so an act of retribution is responsive to a wrong act as wrong. *It effects a connection of the wrongdoer with correct values* through its recognition and response to wrongness as wrongness (*Philosophical Explanations* 387, italics added)

The test for Kant as to whether an act is worthy of condemnation is whether or not the act can be willed as a universal law. Hegel's criticism of Kant's formulation is that the thief, for example, cannot be condemned on the basis of his purported self contradictory behavior until, or unless, the rational necessity of personal property is first established. There is no contradiction in willing, Hegel points out, the non-existence of property, as the thief implicitly does in carrying out his act, unless one can first demonstrate that the thief is undermining the very structure his freedom presupposes. For Hegel, as we have seen, the free self-determination of individuals necessarily presupposes property. In violating property rights the thief is, if Hegel is right about the rational necessity of property, guilty of self-contradiction. His theft violates a condition his meaningful agency presupposes.

The relevance this has to the present discussion is now apparent: Hegel's theoretical spin on Kant's argument requires, now, the situating of moral determination in the material life of a community. One's agency, drawing out the implications of a theme discussed earlier, to be meaningful, requires a context or discursive game against which any particular move can be tested to determine its specific value. This means however, that in adjudication, the twelve jurors are not in some remote transcendental position. The criminal or immoralist violates, to some degree or other, the structures that their, and, most significantly, our, socially situated agency presupposes. For Hegel the implication that the jurors are in some sense always and necessarily interested is not however problematic. If the structures in place are fully rational, as he believes they now are, then, although the lives of the jurors are implicated, negatively, in the activity of the criminal, the jurors hold, at the same time, a position of rational transcendence. The structures that the criminal violates are rationally necessary, a necessity the criminal himself would recognize if he reflected upon the matter sufficiently. Punishment serves to condition this reflective process. The structure society has upheld have the character of rational necessity to support them. Free from the charge of ideologically motivated repression, society is rationally warranted in punishing the

deviant.

For Nozick however, this way out of the dilemma does not appear to be an option. Unless he is willing to deny, as does Hegel, the possibility of legitimate political agency, in favor of infinite mediation, he must acknowledge the biased, interested and limited character of our moral/legal judgments. In other words, if the always situated and altogether unique individual 'I' has not become equivalent to Hegel's universal 'We', a 'We' dialectically, and thus materially, resolved of all sources of social conflict and opposition, then in condemning the activity of those deemed immoral, 'We', simply re-inscribe those structures that our particular, historically situated interests presuppose. Those whose activity does not presuppose these structures, or who find that these structures require the denial or repression of that about themselves they find most meaningful, will, in this process of "justice", not find an unbiased, rational determination of their actions, but simply a reaffirmation of those conditions without which the bourgeois individual, in Hegel's totality, cannot fulfill his projects. Explicitly stated, the shape of your freedom, that institutional articulation of the world presupposed in the material pursuit of your individual ends may be, implicitly or explicitly, the very real shape of my oppression. Unless Nozick wishes to make the Hegelian claim, then he, and we with him, must acknowledge that nothing more *metaphysically* valid than an ethnocentrism of the sort Richard Rorty speaks of sustains our moral/institutional structure ("Feminism And Pragmatism" in *Pragmatism: A Contemporary Reader* 128). In fact, against the conservative reading above, Nozick seems to endorse this conclusion, and in so doing, keeps the dialectical life, or zigzag, of social meanings alive. Just as we try to get resistant individuals to align themselves to our socially sustaining values, so the "civil disobedient" tries to move us to accept the validity of his/her meanings, meanings which up till now we assumed were worth the moral cost of repressing:

> The civil disobedient, views himself as affirming correct values, and is attempting to connect us with these. In his intending that we realize the reasons behind his acts, and intending that we realize we were to realize all this, and so forth, his act satisfies the Gricean conditions for meaning: he is sending *us* a moral message. In attempting to connect us with correct values, we whom he views as flouting these correct values, he is performing an act of the same general type as punishment...And in challenging us to punish him, he shows us how seriously he takes his moral commitment, hoping to lead us to reexamine ours (just as the punisher shows he takes his moral commitment seriously enough to inflict suffering in its service, and hopes the punished person will be led to reexamine his actions), and he places his moral message athwart ours, engaging in a *competing moral communication*- one that *sometimes* is successful (*Philosophical Explanations,* italics added 39.).

This is the point that feminists, gay activists, and other marginalized groups continually, if only implicitly, make. Indeed we see this logic clearly played out with respect to the issue of "gay marriage". The argument against it is often cast explicitly in terms of its threat to the family. In socially acknowledging these relationships, in this fashion, we will change the very meaning of the concept of family. It was however in opposition to these socially excluded relationships that the concept of family understood itself. The fear is, then, that such marriages will lead ultimately to the dissolution of what the institution was intended to inscribe, eliminating the contrasts in terms of which it distinguished itself from various 'deviant forms'. To change the concept of something, in this instance marriage and family, is, as the Hegelian logic recognizes, to change the very identity of the object. Dissenters to 'alternative' family arrangements then argue that such relationships are therefore best *confined* to the private realm. The institutions of marriage and family, as currently represented, must be preserved against threats to their identity. To allow any relationship to qualify as family, would be to drain the concept of all meaning. This approach, regardless of where one falls on the issue, fails to recognize that the freedom the conservative gives with one hand, s/he withdraws with the other. What is lacking in this a-political approach are the institutional structures that would make such relationships materially possible. Issues of spousal benefits, legal recognition, and other social supports that would make this a coherent subject position are not addressed. To satisfy this desire would, as our interpretive holistic position verifies, require reciprocal changes to other social/legal institutions. We see here support for the assertion that 'the personal is the political'. One's individual agency is inextricably interwoven in a social, political, context. Your freedom, articulate and expansive, requires certain social presuppositions in order to express itself. If those presuppositions conflict with those that others need to manifest their freedom, there is struggle, conditioning Nozick's "competing moral communication". Nozick in what follows demonstrates his awareness that freedom, abstractly confined to the personal, is, if not meaningless, at least drastically attenuated. Real freedom, again, requires the discursive structure within which it can fully manifest itself. Short of this, the dialectical tension remains unresolved:

> Part of responding to another as a value-seeking self is to coordinate our specification of the respected domain of others, so that the person does have a generally recognized domain of autonomy, and also to publicly avow our respect for this domain, so that he is autonomous within in it and can count on that (*The Examined Life* 501).

This means, then, that by creating the discursive space necessary to accommodate your expressive needs, society might have to undermine significant portions of the prevailing social structure that my freedom requires.

It is Hegel's view, however, that the modern state, qualified and adjusted in minor ways, possesses that logic of the social, that institutional and moral structure alone presupposed by the fully 'self-actualized' subject. And this state, in turn, has as its presupposition, its condition of possibility, the fully self-actualized 'universal subject'. For Hegel, the dialectical struggle for identity is no longer necessary, and consequently is entirely lacking its former justification. The available social forms are intrinsically rational and can answer the (rational) subject's need for an identity, or subject position, that is equal to itself. These diverse subject positions are, in turn, mediated through the context of the whole, presenting a complete, interdependant, self-sufficient totality. We have in the mutual interdependence of these various positions, Hegel argues, a completely mediated organic unity, in which each of the various moments of society logically presupposes the presence of all the others:

> The state is actual, and its actuality consists in the fact that the interests of the whole realizes itself through the particular ends. Actuality is always the unity of universality and particularity, the resolution of universality into particularity; the latter then appears to be self-sufficient, although it is sustained and supported only by the whole (*Philosophy of Right* 302).

At the end of the day, the Hegelian social synthesis bears a strong resemblance to the reified Kantian totality. The difference is merely in how one envisions its establishment. As with the Kantian system, the Hegelian philosophy presents an architectonic in which one must find satisfaction in one of the social categories available. The dialectical life of the state, its coherent internal relation, demands, as a necessary condition of its continued possibility, that individuals find themselves within its unified logical space: "The state must be regarded as a great architectonic edifice, a hieroglyph of reason which becomes manifest in actuality" (*The Philosophy of Right* 321). The principle of recognition depends upon individuals assuming an intelligible subject position, an already existing social role that is congruent with the life of the community. The form must, for Hegel, be pre-existent. To introduce a dramatically new subject position would necessitate a realignment of the current social unity, changing the relative values of

the other positions. If such change is necessary it would of course undermine Hegel's claim that the rational is indeed actual. This change would rather be evidence of its insufficiency. The clear implication is that there can be nothing left to do in the serious dialectical sense.

Universal reason is no longer subject to its previous dialectical unrest, no longer driven beyond its limited satisfactions. The tensions, contradictions, and oppositions conditioning the dialectical labor or struggle of universal reason have been fully and therefore finally resolved. One must now quietly assume a pre-existent social form. In so doing one would, then, represent a dialectically necessary, logical 'place holder':

> [A]t a time when the universality of Spirit has gathered such strength, and the *singular detail, as is fitting, has become less important*, when, too, that universal aspect claims and holds on to the whole range of the wealth it has developed, *the share in the total work of Spirit which falls to the individual can only be very small.* Because of this, *the individual must all the more forget himself, as the nature of Science [i.e. the Absolute philosophy] implies and requires.* Of course, he must make of himself and achieve what he can; *but less must be demanded of him, just as he in turn can expect less of himself, and may demand less for himself* (*Phenomenology of Spirit*, italics added 45).

Contrary to certain caricatures, Hegel does in fact acknowledge with Nozick that complete organic unity is not possible. The idea the all differences could be intelligibly mediated within one unifying logic is too much to ask. Recognition requires the subsumtion of particular things, each, as Nietzsche notes, identical to itself alone, under universals or concepts (*Philosophy And Truth* 83). In placing something equivalent only to itself under a concept in which innumerable other, equally unique things are placed, we mark certain of its features as interpretively salient, these become its 'essential features'. Other aspects of it, equally present in the thing itself, we dismiss as merely particular variances to this essence, and therefore peripheral to the things identity. Thus even in the organic unity that Hegel envisions, this separation between the essential and the contingent remains. In fact, it is essential that this division between what is essential and that which is merely contingent remain, and do so in a stable fashion. For Hegel what is contained in our concept, at the 'end of history', does answer to the essence of the 'in itself'. Proof lies in the fact that we can bring these otherwise dispersed, innumerable particulars into conceptual/social unity. As far as this principle applies to social recognition, one cannot be acknowledged for all one's irreplaceable uniqueness, all the many particularities of person that make one

the absolutely unique being that one is. This implies that desires that cannot be fulfilled within any of the available subject positions open to one must be repressed. In the logical space provided by the state's categories, only certain differences will make a determinate, socially significant difference. Social recognition requires, in short, that I assume an intelligible space, or moment, within the totality of the whole. I establish for myself an articulate identity within the social by adopting a subject position that can give meaningful expression to my particular character. In short my socially significant identity must be mediated through a social form:

> The state is concerned only with those aspects of individuals which are objectively recognizable and which have been tried and tested, and it must pay all the more attention to such aspects in the case of the second section of the Estates, because this section is rooted in interests and activities which contingency, mutability, and arbitrary will have the right to express themselves (*Philosophy of Right* 349).

The Estates then mediate between the interests of the socially situated self, equal to itself alone, and the universal social form, ensuring that the self has its identity preserved within the life of the state. Hegel is committed to the view that there are 'objective interests' congruent with our social identities. The Estates exist then to satisfy these objective or essential needs. Not any contingent desire, as in the life of the self, is worthy of, or can be given, social attention. In fact, if one is unable to find satisfaction of a particular desire through the mediation of one of the available social forms, one must repress it as incompatible with that institutional structure that alone can guarantee one's objective freedom. (This, in Nozick's terms, means that there are for Hegel universal and necessary, not simply social/relational, limits on the particular matrix of weightings I can use to 'decide' my identity.) One must see that the social form is intrinsically rational. One must, in Hegel's terms, 'raise oneself up to the level of the Absolute', rather than reduce the absolute to the contingency of the self. If attention were given to every contingency of desire, if one interest was as valuable as any other, or if each person wanted recognition not for their determinate place within the state, but for themselves qua irreducible self, the principled unity of society, depending upon the coherent mediation of difference, would become reduced to anarchy. John Dewey gives expression to this principle in the following:

> Polarity, or opposition of energies, is everywhere necessary to the definition, the delimitation, that resolves an otherwise uniform mass and expanse into individual forms. At the same time the balanced distribution of opposite energies provides the measure or order which prevents variation from becoming a disordered heterogeneity (*Art as Experience* 157).

It is in this context that one must read the discussion that follows:

If the deputies are regarded as representatives, this term cannot be applied to them in an organic and rational sense unless they are representatives not of individuals, as a crowd, but of one of the essential spheres of society, i.e. of its major interests. Thus, representation no longer means replacement of one individual by another; on the contrary, the interest itself is actually present in its representative, and the latter is there to represent the objective element he himself embodies (*Philosophy of Right* 350).

It is only because of the mediating role played by the Estates that differences and oppositions within the state can be meaningfully played off of one another. Through this balanced opposition of forces society is able to maintain its dialectical integrity, as each group's work to satisfy itself works toward the satisfactions of all others:

It is only through their mediating function that the Estates display their organic quality, i.e. their incorporation in the totality. In consequence, their opposition is itself reduced to a semblance (*Philosophy of Right* 342).

This means above all, that only those interests and desires that can be articulately played off of other opposed interests can be pursued within the mediating logic of the social. There will then be necessary exclusions. For Hegel these exclusions represent what is simply contingent, peripheral and essentially unworthy of social expression. Indeed, should they given expression, they would undermine, implicitly, or explicitly, the dialectical balance of opposed and integrated forces. Laclau and Mouffe discuss this principle, the principle of the reciprocal dependence of the moments within Hegel's dialectical closure, in the following:

Now, in an articulated discursive totality, where every element occupies a differential position - in our terminology, where every *element* has been reduced to a *moment* of that totality - all identity is relational and all relations have a necessary character...Whoever says system says arrangement or conformity of parts in a structure which transcends and explains its elements. Everything is so *necessary* in it that modifications of the whole and of the details reciprocally condition one another. The relativity of values is the best proof that they depend closely upon one another in the synchrony of a system which is always being threatened, always being restored. The point is that all values are values of opposition and are defined only by their difference...If language is something other than a fortuitous conglomeration of erratic notions and sounds uttered at random, it is because necessity is inherent in its structure as in all structure. Necessity derives, therefore, not from an underlying intelligible principle but from the regularity of a system of structural positions (*Hegemony and Socialist Strategy* 106).

For the post-modernist, the question of necessity in this structure arises. Hegel found satisfaction at the sight of this absolute interdependence. Each moment presupposed the totality of the whole and the

whole was nothing outside of, or external to, the coherent interrelation of this unity. This for Hegel represented the proper figure of infinity. Unlike the atomistic conception, where there were simply atomistic elements dispersed into a boundless infinity, Hegel understood the concept in these organic terms. If one of the essential moments were however to disappear, or alter its relative position with respect to this delicate interdependent whole, the dialectical life of the state would be disrupted. The balanced oppositions would cease to play meaningfully off of one another. Difference would cease to feed into the life of the state but appear as an external force.

At the level of abstraction one finds the Hegelian synthesis compelling. However, when one understands the implication of complete mediation, the turning elements into dialectical moments, one is given cause for concern. As Hegel indicates below, the stability of the dialectical synthesis depends, as a condition of its possibility, on the architectonic he describes: "[T]he universal differences into which civil society is particularized are necessary in character. While the family is the primary basis of the state, the estates are the second"(*Philosophy of Right* 234). By family Hegel means, of course, that structure exemplified in the bourgeois household. Hegel is explicit regarding the ethical/social vocation of women. They are confined, within the logic of the social, to the home. It is there that they must establish an identity equal to themselves. The man however has, as his rightful vocation, involvement with the life of the state. While his life is defined by effective agency, hers is merely "passive and subjective" (*Philosophy of Right* 206). To allow women to define themselves otherwise than in terms of this arrangement would be to disrupt the most basic constituent moment of the organic unity of the state. Men can satisfy their objective need for self-defining agency only because women provide them with the social presupposition, the support of family, for this activity. Reciprocally, women can satisfy their interests, (more like pre-reflective needs), the desire to care for the needs of the family by virtue of the agency men engage in. For a woman to desire to engage in the same self-defining projects as men, who are essentially suited for this type of agency, would be a sign of her irrationality. Not only would this, if indulged, throw the established, internally regulated, unity out of alignment, as it indeed did when women began entering the work force in large numbers, it would be working against the essence of 'woman' that history has taken such pains to reveal. Hegel asserts quite unambiguously, the unsuitability of women for pursuits outside

the home. She is intrinsically unsuited for higher education or meaningful employment. This is traced to an innate inability on her part to make the same degree of rational abstraction, necessary for such social relationships, as men (*Philosophy of Right* 206). Given that women have assumed, successfully, such subject positions, and often out of the felt need for the 'expressive space' these roles provide, it does represent a strong counterfactual example to Hegel's assertion that the essence of women is satisfied by the role of 'home-maker'.

Hegel was correct in pointing out that allowing women access to these positions would require major adjustments in the prevailing social arrangements. It did not however lead to social dissolution. In terms of preserving interpretive balance, it proved a better social move to make, than would barring women access to subject positions that could exhaust their expressive potential. In turn, gays are 'asked', through the language of coercion (often losing their jobs, housing and social standing), to acknowledge their threat to the stability of Hegel's rationally necessary structures[21]. For those who find their expressive agency stifled in the prevailing logic of the social Hegel's assurances of interpretive closure may, however, seem ideologically motivated.

With this discussion we find ourselves once again in the struggle for identity. As does the post-modernist, Adorno takes issue with the Hegelian claim of identity. He sees beneath the assertion of identity the difference that has been forcibly repressed or excluded. He will thus hold up the Hegelian criterion of adequacy to Hegel himself. The demand is that there be a "*Pure* self-recognition in absolute otherness" (*The Phenomenology of Spirit* 14). Translated into social terms, the categories you would subsume me under must be ones that I identify myself with. What our discussion above illustrated was that certain groups - out of irrationality if we are to accept Hegel's word - refuse to fully identify themselves with an available subject position. Must we though take Hegel's word, against those who resist it, that there is real or essential identity beneath the contingency of difference? Why do we continue to find

[21] In terms of Jim, the ex-slave, he must find himself in those categories society has made available to him. Thus exploring his 'African roots', unless it is to uproot sources of irrationality remaining in him, is ruled out. To define himself in terms mediated through this past would be to frustrate the conditions necessary for rational mediation. Jim, like the dissatisfied housewife or gay person, however might find the categories that he is subsumed under inadequate to his expressive needs, that these social forms are not presupposed by universal man, but merely represent those that the bourgeois individual finds necessary to structure his world.

people unsatisfied with these intrinsically rational structures? We seem to return to the opposition that Hegel thought he had resolved in Kant's philosophy, the tension between the social unity, or totality, required by morality and our personal happiness. For Adorno this residual tension will be a sign that the Hegelian identity is mere ideology. His answer is to turn the dialectic against itself:

> The matters of true philosophical interest at this point in history are those in which Hegel, agreeing with tradition, expressed his disinterest. They are non-conceptuality, individuality, and particularity - things which ever since Plato used to be dismissed as transitory and insignificant, and which Hegel labeled "lazy Existenz." Philosophy's theme would consist of the qualities it downgrades as contingent, as a *quantite negligeable*. A matter of urgency to the concept would be what it fails to cover, what its abstractionist mechanism eliminates, what is not already a case of the concept (*Negative Dialectics* 8).

As with Hegel's dialectic, the goal is complete identity between concept and its 'object'. Within this perspective, the mark of inadequacy is determined by the amount of resistance met with. The Hegelian synthesis is condemned upon its own grounds. Its conviction, however, brings for Adorno new promise:

> The supposition of identity is indeed the ideological element of pure thought, all the way down to formal logic; but hidden in it is also the truth moment of ideology, the pledge that there should be no contradiction, no antagonism (*Negative Dialectics* 149).

Within this moment of resistance is, Adorno suggests, the hope of redemption. What is necessary for Adorno is not the premature reconciliation that leaves difference excluded by decree but real interpretive adequacy: "Dialectics unfolds the difference between the particular and the universal, dictated by the universal....Reconcilement would release the non-identical, would rid it of coercion" (*Negative Dialectics* 6).

The post-modernist, Nietzsche for example, would argue however, that the quest for adequacy is misguided. Unlike Adorno - attempting to force concepts to speak against their own inadequacy, to break through the armature of conceptual repression restraining the prevailing system of expression - Nietzsche will argue that concepts are, necessarily, repressive in character. Repression, for Nietzsche, is a necessary condition for expression. By means of the identifying *force* of its logic, concepts, or universals make equal or identical, what are in fact unequal or wholly peculiar:

> Every word instantly becomes a concept precisely insofar as it is not supposed to serve as a reminder of the unique and entirely individual original experience to which it owes its origin; but rather, a word becomes a concept insofar as it simultaneously has to fit countless more or less similar cases - which means, purely and simply, cases which are never equal and thus altogether unequal. Every concept arises from the equation of unequal things. Just as it is certain that one leaf is never the same as another, so it is certain that the concept "leaf" is formed by arbitrarily discarding these individual differences and by

forgetting the distinguishing aspects (*Philosophy and Truth* 83).

Items are then found, or rather are socially constructed, to present an equivalence of meaning with respect to some set of defining interests. Through the unifying force of our categories we are able to cognitively subsume, and therefore practically manage, an indefinite number of particular objects and events. This identity of meaning remains however relative to the context of value in terms of which such expressions of equivalence are sought. What could otherwise explain why, in marking certain features of an altogether unique item, equal to itself alone, we select these particular aspects of it to be essential to its meaning or identity, and exclude other aspects of its singular identity as inessential? Given that we share, broadly speaking, the same discursive context, and must therefore conduct ourselves in terms of the interpretive structure it presents, it is no accident that we are called upon to make the same conceptual distinctions. It is for this reason that we, in Nietzsche's terms, have a moral duty "to lie according to fixed convention" (*Philosophy and Truth* 84). By this Nietzsche simply means that we must all, as a necessary condition of social coherence, make our false equivalencies in the same manner. Nozick broaches this same issue when he discusses the fact that we, in our various occupations, are always required to be attentive to certain aspects of the work environment, to the necessary exclusion of others. These aspects define, for one who is professionally interested, 'what is really going on'. Our attention to them, our gaining a sense of what is now happening, requires that we shift through and exclude extraneous detail. Aspects of the situation which have no relevance to the meaning that we are constructing, relative to our defining interests, are then "*de jure* or *de facto*" ignored (*The Examined Life* 122). This implies, returning to our earlier discussion of judicial decision, that though the jurors are interpretively biased, they are required to be so in an institutionally responsible fashion. Certain biases, those that the particular individual may harbor, can be ruled out as deviant or merely irrelevant. In the broader social circumstance this picture is problematized by the fact that we do not all share the same interpretive space. We often are found lacking a structure of authority that can determine, unambiguously, what the right decision in a particular case is. Conflicts in interpretation occur as people structure their judgements in ways that make sense from their particular contexts of decision. One must be careful not to exaggerate the scope of this interpretive play, however, to do so would subject our social judgements to the threat of radical subjectivism. The

subjectivist, as we have seen, is unable to account for the possibility of a shared logical space and consequently unable to explain how social coherence is first possible. We might also point out that even in the purportedly closed system of judicial judgement interpretive challenge is ongoing. This does not, however, prevent practitioners from sharing, within the process of interpretive struggle, enough presuppositions to make institutionally coherent decisions. Within this context there simply will not be enough room for some meanings, though through continued practice discursive moves once ruled out of court may later find institutional favor. Thus there is no absence of an objective, though evolving standard, against which interpretations can be tested. This phenomenological fact that Nozick discusses is then simply the microcosmic equivalent to the process through which our social meanings are manufactured. As Dewey writes:

> Just because observation has been socially trained, fixed by education, and because classifications and appraisals deposited in language have, from the very beginning, woven themselves into every perception and opinion, socially determined qualities are an inextricable part of any object. And whenever the notion of truth or falsity comes into play, the socially prescribed feature stands out as the rightful, the authoritative, the definition of the object, in contrast with the tendency of the individual to regard it in an interest which is not merely private, but, according to current convention, illicit - anti-social. From the standpoint of practical common sense, to say that the truth involves a distinction of the thing, as it is in itself, the "real" thing, from the thing as it appears or is merely conceived to be, is to insist precisely upon the contrast between a social prescription as authoritative and a personal regard as tempting but forbidden (*Human Nature and Conduct* 17).

This interpretive violence, forcing the concrete particular, identical to itself alone, to speak to an equivalence of meaning it would not otherwise express, is then intrinsic to the use of concepts and not then something we could avoid. Nor can the dialectical approach resolve this irreducible tension between concept and object. Our discussion of subject positions confirms our view that amongst those 'objects' that we subsume under inadequate concepts we must number people. As Adorno properly recognizes, real "reconcilement would release the non-identical , would rid it of coercion" (*Negative Dialectics* 6). As the discussion above suggests, however, this hope appears to be completely quixotic. Contrary to Hegel, there is no necessary, transcendental arrangement governing which aspects of an individual we must acknowledge as essential to his 'rational realization', no single, objective matrix of weights constituting one's identity within an established subject position. As we shall see, one's ethnicity, sexual orientation, gender, indeed any feature at all may assume, and do so for only as long as it proves conducive to this

evolving persons interests, the role of the central unifying value, or essence. To say this is to free Nozick's discussion of personal identity, and the weightings that one uses to give form to it, from unwarranted restriction. It remains true however, that although there are no universal, transcendental limits upon identity schemes, there are always social constraints. One's self conception must fit, perhaps with a degree of dialectical play, intelligibly within the shared logical space of society. These constraints are subject to revision, as those with deviant, peripheral schemes struggle to have their system of weightings receive the social supports necessary for them to truly 'act out their identities'.

This also explains why Adorno's dialectic remains always only negative. Real reconciliation is always deferred, as irreducible difference continues to speak against the 'lie of identity'. It is for this reason that Adorno's philosophy has the appearance of a negative theology as utopia is perpetually postponed. A strong *prima facie* case can then be made for indicting Adorno of the crime for which Hegel had long ago condemned Kant. The concept of "infinite progress" is simply a contradiction in terms. What one really has theorized is not progress, only perpetual change. It is this conclusion that the post-modernist will both acknowledge and endorse.

We see the relevance of this discussion to the moral realm. In a concept, murder for instance, we make, through our conceptual arrangement of the details, an event, sufficient to itself alone, speak to a meaning it would not otherwise express. We do so on the basis of preserving social order. There is no question here of revealing the eternal, immutable essence of 'murder in itself'. Socially, we do have our justifications for attending to certain aspects of the case rather than others. As our discussion suggests, it is perspectival interest that will determine the shape truth will bear. Thus in subsuming an event under the concept of murder, we are interpretively constructing it according to social demands. Given that no murder is ever the same as, or equal to, any other, and that we must, nevertheless, make these interpretive judgements in order to rest a coherence of social meaning from the 'Hericlitean flux' of disordered particulars, we must agree with Foucault that power and truth are not mutually exclusive categories:

> The important thing here, I believe, is that truth isn't outside power, or lacking in power...Truth is a thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its 'general politics of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what

counts as true ([22]*Power/Knowledge* 131).

In any social context there will be perspectives, opinions, and practices that are, implicitly or explicitly, in tension with the established institutional boundaries governing the social production of meaning. These institutions both produce, or rather continually reproduce, these meanings, and, in dialectical fashion, presuppose them. As a necessary condition to preserve interpretive coherence, some interpretive exclusion will however be necessary. As the example of slavery in America demonstrates, this simple, mechanical reproduction of meaning can and is, to some degree or other, always being altered. This alteration occurs in the manner described earlier. The perceptual features to which a large number of interested agents want to draw attention, to see socially acknowledged, are pressed upon prevailing opinion and assumption. At one time, for example, a husband could not rape his wife. It was in the strictest logical sense, inconceivable. Analytically embedded in the concept 'rape' was the necessary criterion, not married to the assailant. This intrinsic or essential feature to the identity of a rape, became, through the determinate political praxis of feminists, an altogether extrinsic feature of the crime. To incorporate this meaning, to socially digest it, required abandoning the view that the man was the ruler of the house, that the wife existed merely as an extension of his property. Although in the determination of fact the marital relation might be relevant, as far as the meaning of the crime is concerned, it is no more relevant than the color of the assailant's hair. Thus through this agency, we find it socially and morally obligatory to ignore the marital relationship in the determination of law[23]. With Foucault, we must

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[22] Revisiting our discussion of Jim in appendix II, we see that certain aspects of his being were socially defined as central to his identity, other aspects, those to which Huck became attentive, were ignored, or rather, repressed from the prevailing social consciousness. For Huck, the coherence of his experience seemed to demand a revision in the established conceptual order - a revision that would create the discursive space within which the perceptual elements he found central to his understanding of Jim's identity could be discursively and therefore materially inscribed.

[23] As the above discussion suggests, a social meaning, once lying in the cultural unconsciousness, assumed unambiguously valid, except for socially negligible radicals - of which the women's movement was said to have been composed - can move ever further toward open contestation. At this point there simply is no clear 'fact of the matter', no shared standard against which an individual can test their judgement. Even though we are hard pressed to find a meaning that is not, somewhere, challenged by someone, it remains the case that society is not threatened with nihilistic despair, facing open interpretive dispute on all fronts. Though there remains, for instance, those in our society who maintain, against near universal opinion, that our former concept of rape was the right one this does not seriously threaten our conviction in the rectitude of our current judgements in this matter. Functioning societies have, as a condition of their possibility, relatively stable shared social meanings. Thus there remain objective meanings that provide structure and direction to our individuals' lives.

acknowledge that to conceive of power as always only repressive is to ignore its productive aspects:

> If power were never anything but repressive, if it never did anything but to say no, do you think one would be brought to obey ? What makes power hold good, what makes it accepted, is simply the fact that it doesn't only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms of knowledge, produces discourse (*Power/Knowledge* 119).

The Hegelian vision imagined that there was a rational necessity determining the direction of change. This view however presupposes the very criterion of adequacy that we have just called into question. What then determines the direction social change will take? Certainly we can and do change our social meanings in light of subsequent experience. This need not be interpreted as getting progressively closer to the "truth" writ large. Rather, speaking in economic terms, society will find it sometimes less costly, in the face of resistance, to open itself up to new meanings, to become attentive to features it once excluded. This is a point to which Nozick has already spoken. In our theoretical unifications, judgements of value will play a decisive, if often unacknowledged, role in determining what gets unified and what gets theoretically discarded:

> Whether to reject a particular hypothesis, or instead to accept it but make theoretical modifications elsewhere to accommodate apparently conflicting data, depends upon how good the resulting overall theories would be. This would depend be determined by some measure of the overall goodness of a theory, compared to that of competing theories, taking account of its fit to the data and to the ongoing problem situation, its explanatory power, simplicity, theoretical fruitfulness, and coherence with an existing body of knowledge (*The Examined Life* 277).

This principle applies to the unification of competing meanings we wish to realize in society. To preserve those structures, moral and otherwise, that our agency presupposes, realizing certain cherished meanings, will require excluding other incompatible values. Certain meanings, the data we are addressing here, will not be able to coherently integrate themselves in a way that does not cost more in social terms than their worth would compensate us for. Thus we do not become subject to the nihilistic relativity of values that Nietzsche feared would result from our rejection of trans-historical values. This implies also, that the logic of the social, in terms of which our individual actions are oriented, excludes at the same time as it includes. It necessarily represses as it provides the conditions for us to express. This is simply to reinforce our earlier point about the productive quality of power. Not able to provide discursive inscription to all perceptions and desires, society (used once again as a convenient abstraction) will alter its meanings in a

manner that is most economical, involving the greatest unity at the least cost. The interpretive pull toward change will overcome the inertia of conventional wisdom. This might mean, as the re-conceptualization of rape demonstrates, the reversal of the categories of the essential and the contingent. We cannot however open ourselves up to all meanings. Certain meanings will be too expensive in terms of our long held values. With this we of course return to our interpretive wholistic position, *sans* the notion of teleology.

This same principle applies to the kinds of identifications we make of individuals. This dialectic is explicitly narcissistic. I will struggle against any form placed upon me unless I find my selfhood in it. To find categories and stable subject positions that would answer each particular agent's interests, as Hegel recognized, is impossible. Nozick alludes to this irreducible tension in the following:

> I can leave room in my [social] conception of you for your own self-conception. I can leave a space, a place-holder, in my general conception of what constitutes a person, to be filled in, for each person, by his own weighted sum of dimensions which fixes what will be his own weighted sum of dimensions which fixes what will be his own closest continuer. My conception of him is as someone whose identity is partially fixed by his own self-conception. This may not be as much leeway as he would like; it leaves him only some choice within my (largely filled in) general conception of a person...Some uniformity of delimitation is achieved in a social matrix. Rewards and punishment will lead to a boundary in a particular location along given innate salient features or dimensions. Recalcitrant individuals who act on their deviant classifications wherein part of their own body includes someone else's arms, will be punished, institutionalized, or killed (*Philosophical Explanations* 108).

The sorts of deviations that most frequently concern us socially are not the "innate" salient features that Nozick speaks of. Indeed, one is hard pressed to determine how such features could be identified non-relationally, which is to say socially. The source of real social tension are those deviations in self conception that challenge the current social discursive terrain. In Nozick's terms, individuals want to have their particular matrix of weightings that constitute their particular self-conceptions socially respected. For most of us the discursive space pre-exists our expressive needs. For others, however, no such space is as yet available. To satisfy them will necessitate changes to our institutional life, necessary to provide the conditions this change presupposes. Nozick, in the following, recognizes, unlike Hegel, the legitimate possibility of cultures having very different interpretive matrices; categories essential to us, representing peripheral values for them and the reverse:

> The choices that are viewed as significant and central to a person's life and self-definition may vary from culture to culture - we can imagine science fiction situations where others view as trivial the choices we hold as centrally important, while viewing other choices (trivial to us) as of great significance. In that

society, the domain of autonomy might appropriately be demarcated differently (*Philosophical Explanations* 502).

This difference is of course played out on a smaller, less dramatic, scale within society. In fact, returning to a theme Nozick discusses as far back as A.S.U., he points out that the differences in weightings and values that structure our lives, make anything like an absolute interpretive social synthesis impossible:

> [P]eople are different. They differ in temperament, interests, intellectual ability, aspirations, natural bent, spiritual quests, and the kinds of like they wish to lead. They diverge in the values they have and have different weightings of the values they share (310).

The implication is, as Foucault points out, that the dialectic of identity cannot be brought to some stable, ultimate resolution:

> Humanity does not progress from combat to combat until it arrives at universal reciprocity, where the rule of law finally replaces warfare; humanity installs each of its violences in a system of rules and thus proceeds from domination to domination (*Language, Counter-Memory, Practice* 150).

We can see in this recognition a freeing of Hegelian philosophy from the Onto-Theological baggage inherited from Kant. This recognition does not, however, bring us back, full circle, to social atomistic anarchy. What works to prevent radical interpretive chaos is the fact that we, each of us as individuals, always remain centered by a shared social interpretive context. It is important to note that we are not making a prescriptive judgement. The suggestion is not that one *ought* to assume the side of conservatism to prevent the unrecognized consequences of one's actions from spinning out of control. This principle merely describes the conditions which articulate disagreements presuppose; it points out that in each particular case of interpretive struggle, there is a greater content whose validity we will both, if only implicitly, necessarily acknowledge. For disagreements or differences to be articulate differences, disagreements about which the contending parties can make sense - can understand the intention, relevance and significance of the particular assertion - the conflicting parties must share enough assumptions, indeed the major body of assumptions, to be able to render each others 'moves' intelligible. Only then can they undertake the process of determining the relative merit of the opponent's position. Unlike Adorno and Hegel, who posit a necessary content that is preserved and furthered in this struggle - accounting in this way for stability and continuity, locating dissension at remove from this intrinsically

valuable content - we need only point out that although people can and do disagree over where the *real* tensions lie, in each such instance the conflicting parties will implicitly share a broader context of interpretive agreement. It is by virtue of playing the same 'discursive game' that one can make sense of the strategic moves others wish to make. This allows us then to test the relative merits of various critical agendas against the particular structure and exigencies of our shared social context[24]. Various groups will however find the institutional boundaries impinging upon them in different places. There are no *a priori, or transcendental* grounds determining which direction, if any, subsequent change will take. This leads us to recognize, with Laclau and Mouffe, "the incomplete, open, and political negotiable character of every identity" (*Hegemony and Socialist Strategy* 104). Identities are then, never complete, as for Hegel, but are constantly undergoing the process of re-negotiation. Contrary to Hegel and Marx, there are no objective or essential interests that social forms exist simply to represent. Rather, lines of division, determining where one's real interests lie, are constantly undergoing re-inscription. Are the lines of division most 'adequately represented' in terms of gender, ethnicity, religious affiliation, sexual orientation, or economic status? Or none of the above? Perhaps smokers versus non-smokers? As our discussion suggests, these lines of social articulation will be constructed, revised, and replaced, as those situated within the social dialectic find most strategically valuable:

> Political practice does not recognize class interests and then represent them: it constitutes the interests which it represents....The 'winning over of agents to their historical interests' is, quite simply an articulatory practice which constructs a discourse wherein the concreate demands of a group - the industrial workers - are conceived as steps towards a total liberation involving the overcoming of capitalism. Undoubtedly, there is no necessity for these demands to be articulated in this way. But nor is there an essential necessity for them to be articulated in any other way, given that, as we have seen, the relation of articulation is not a relation of necessity. What the discourse of 'historical interests' does is to *hegemonize* certain demands (*Hegemony and Socialist Strategy* 120).

The political realm is not then devoured by truth. The (social) practice of truth, as our discussion

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[24] This point renders the Platonic question moot. As Stanley Fish points out, only this kind of situated or perspectival criticism has any real currency. Only critique that can be tested against our social context carries existential weight. Such critique speaks to issues as they are currently socially, materially and historically structured; its assertions of truth can then be tested against our current material context. Transcendent truth, on the other hand, by definition not bound to any particular condition, nor identifiable with any perspectival production, would not therefore, in Fish's elegant phrase, "be clothed in any of the guises that would render it available to the darkened glasses of mortal - that is, temporally limited - man (*There's No Such Thing As Free Speech* 8).

demonstrates, is replaced by politics, or rather, is shown, as Stanley Fish points out, to have been politics all along. It is to this conclusion that the Nozikean trajectory ultimately leads. We do not find, with Hegel, an all constituting, transcendental, self-identical subject at the end of history. Rather we must agree when Foucault says the following:

> I do indeed believe that there is no sovereign, founding subject, a universal form of subject to be found everywhere. I am very skeptical of this view of the subject and very hostile to it. I believe, on the contrary, that the subject is constituted through practices of subjection, or, in a more autonomous way, through practices of liberation (*Politics, Philosophy, Culture* 50).

The self, its meanings, its discursive positioning, are then what is in fact constituted. Although, of course, the self can alter, through its agency, the very conditions under which it is constructed. There is no stepping outside of, or above history, no realm of truth that is not implicated in the "messiness" of the political. This is a theme that unifies the earlier and later Nozick's work; only this time, Nozick does not find himself within the reified libertarian framework, which, contrary to its own self-understanding, does not allow individuals to pursue radically different 'lifestyles'. Like all social games, only certain moves can be made within it:

> One persistent strand in utopian thinking...is the feeling that there is some set of principles obvious enough to be accepted by all men of good will, precise enough to give unambiguous guidance in particular situations, clear enough so that all will realize its dictates, and complete enough to cover all problems which actually will arise. Since I do not assume that there are such principles, I do not assume that the political realm will wither away. The messiness of the details of a political apparatus and the details of how it is to be controlled and limited do not fit easily into one's hopes for a sleek, simple utopian scheme (*Anarchy, State, and Utopia* 330).

Although providing us with the interpretive resources to theorize identity, both at the level of the individual and the social, Nozick's work does not - nor do we believe any work can - give us any *special* authority in the construction of our critical/interpretive judgements. We simply do not have access to an apolitical place of transcendence from which to mark out the field of social struggle. The resources provided us are of value descriptively, not prescriptively. Unable to transcend the political, we must acknowledge that we, political philosophers, are caught up in the same ongoing process of negotiating our discursive space as are others.

Appendix I

It is with Kant that the attempt is first made to identify, in a critically warranted fashion, those conditions necessary to bring unity to bear both upon this implicitly antagonistic diversity of individuals, and the similar hostility located within each particular individual. In this way Kant gives theoretical acknowledgment to the specific virtues of both the libertarian and totalitarian positions. At the outset, it is clear that the Hobbesian sovereign, whose specific aim is to provide the coherent "regulating" (*Leviathan* 148) of social actions will not fully answer Kant's theoretical needs; although the fear motivating both theorists is the same. First, although the Leviathan might establish a certain limited coherence amongst individuals within the state through the repression of incompatible diversity, it can provide nothing of a similar sort for the internal life of the individual. Given the fact of subjective autonomy, there must, Kant argues, be a psychological correlate to the unity imposed by the sovereign in the political realm. For Kant, this sovereign of the soul will be reason, able to exercise, like the Hobbesian leviathan, its "autocratic" (*Lectures on Ethics* 140) will upon the contingent, otherwise unruly, desires. One should take note in the following the reference Kant makes in the following to "a certain rabble" making explicit the analogy to the state absent the unity imposed by the force of the sovereign.

> There is in man a certain rabble of acts of sensibility which has to be vigilantly disciplined, and kept under strict rule, even to the point of applying force to make it submit to the ordinances of government. This rabble does not naturally conform to the rule of the understanding, yet it is good only in so far as it does so conform (*Lectures on Ethics* 138).

The "governance" of prudence, however enlightened, simply cannot perform the requisite unifying task. It cannot do so because, in intrinsic abstract terms, as the discussion of felicity reminds us, in the rabble of our contingent desires no one desire stands above or outside all others such that it could operate as a supervening principle:

> Our actions must be regulated if they are to harmonize, and their regulation is effected by the moral law. A pragmatic rule, cannot do this. Pragmatic rules may make our actions consistent with our own will, but they will not bring them into harmony with the wills of others; *in point of fact they may not even make them consistent with our own will (Lectures on Ethics,* my italics 17*).*

The sovereign as conceived by Hobbes, also contradicts the principle of autonomy. As we shall see, however, Kant is unable, finally, to satisfactorily answer the problem of externality, or in his terms, heteronomy, that his critical philosophy has first isolated.

Kant believes that by locating the moral law in the very constitution of the subject he can avoid the Platonic problem noted earlier, raising both the skeptical problem already alluded to, and the problem of "heteronomy" implied by the imposition of an external law upon the self defining subject:

> [A]lthough in the concept of duty we think of subjection to the law, yet we also at the same time attribute to the person who fulfills all his duties a certain sublimity and *dignity*. For it is not in so far as he is *subject* to the law that he has sublimity, but rather in so far as, in regard to this very same law, he is at the same time its *author* and is subordinated to it only on this ground (*Groundwork* 107).

In locating the principle of unity in the faculty of reason he has thus explained both the radical autonomy, or independence of the individual (Hobbes' point), and established, in the same gesture, a critical warrant for Locke's belief in a universally binding moral order. Located *within* the subject , the law, unlike Locke's, is consistent with, or internal to, our freedom, and as necessarily present in the very constitution of all subjects, the moral law is at the same time universal and transcendent:

> If the will seeks the law that is to determine it *anywhere else* than in the fitness of its maxims for its own making of universal law-if therefore in going beyond itself it seeks this law in the character of any of its objects- the result is always *heteronomy*. In that case the will does not give itself the law, but the object [e.g. God or the Platonic Forms] does so in virtue of its relation to the will (*Groundwork* 108).

The Kantian Critical Philosophy has then raised serious questions regarding the theoretical sufficiency of the libertarian position. Libertarianism had assumed an autonomy of the subject - at minimum that presupposed in coherent agency - that its epistemological orientation is completely unable to provide the necessary conditions for. This critical challenge thus serves to move Nozick's political philosophy along in our imaginative narrative. Our narrative cannot end here with Kant however. Though acknowledging the force of Kant's critique, Nozick, following Hegel, will find that it fails to meet the critical standards it has established for itself, and against which libertarianism was judged and was subsequently found wanting:

> [The critical Philosophy] is opposed only to dogmatism, that is, to the presumption that it is possible to make progress with pure knowledge, according to principles, from concepts alone (those that are philosophical), as reason has long been in the habit of doing; and that it is possible to do this without

having first investigated in what and by what right reason has come into possession of these concepts. Dogmatism is thus the dogmatic procedure of pure reason, without previous criticism of its own powers (*The Critique of Pure Reason* 32).

In what follows I hope to make evident the extent to which Kant and the critical philosophy transgresses against its own law. To anticipate, Nozick, for reasons Hegel first alludes to, will find Kant guilty of harboring within his practical philosophy certain pre-critical postulates, necessary to preserve the systematic coherence of his architectonic, that his theoretical conclusions have, already, forbidden him the use of. Rather than reason becoming sufficient unto itself, claiming the autonomy upon which the unconditional dignity of human beings is said to rest, it is lead by following the path Kant maps out, to reverse itself, to become its own antithesis. The First Critique, or reason in its theoretical employment, demonstrated, against the dogmatists, reason's inability to make theoretical use out of concepts whose validity could not be tested against any possible experience. This Kant, the Kant of the critical philosophy, undermines the pretensions of the grand system builders constructing their edifices upon specious foundations. Yet, by the time we reach Kant's moral philosophy, reason, at least in its practical employment, and against its own stated intentions, becomes grounded, not in "clear and distinct" ideas, concepts whose warranted assertability have been assured, but rather in the very same notions that Kant required us to dismiss as dogmatic. God, the immortality of the soul, freedom as intellectual causation, all return holding the same relative positions they held for the dogmatist. Reason becomes faith. Reason, which had sought " complete systematic unity with itself" (*The Critique of Pure Reason* 633), finds itself in a state of internal contradiction. Rather than realizing (in both senses) its implicit autonomy, it finds itself owing a debt, in principle, it can never repay. Placed before the scrutiny of its own critical eyes, these postulates - God, immortality and freedom as causation, conditions which, we might say, in the form of a transcendental deduction, his moral philosophy necessarily presupposes - fail to meet the standards of evidence reason has established for itself. It should be clear that Hegel and Nozick, implicitly, perform a critique, understood in its Kantian intention, upon Kant himself. It would then be a mistake to equate such a project with "criticism" narrowly understood. Nozick and Hegel are best understood as furthering rather than rejecting the critical project. As we have seen Kant, although not adequately resolving them, identifies through his critical apparatus, contradictions that were, prior to him, unrecognized or

approached with the undisciplined "rhapsodic" thinking of the romantics. This critique will trace the root of Kant's unresolved contradictions to the manner in which he understands the faculty of reason to operate. Because he, like the early Nozick, begins his project assuming the validity of the atomistic epistemological tradition he inherits, he is driven to improperly conceptualize the faculty of reason. Although distancing himself from this tradition, he does not make the decisive break that Nozick and Hegel will find necessary if the tensions Kant first isolates are to be fully responded to. Like the Hobbesian sovereign of the political realm, Kant is able to conceive reason only on analogy to an external sword, imposing its regulative law upon an otherwise unruly "rabble". References to moral "Kingdom" and "Sovereignty" are common.

The turn Nozick and Hegel will make to interpretive holism can best be understood as a radicalization of Kant's concept of reason. The expression of a rational life continues to be the coherent unity and stable integration, as opposed to dissonant aggression, of the individual moments of a person's life. Both Nozick and Hegel will however find vestiges of pre-critical thought within Kant's concept of reason. This causes Kant to continue to hold onto a notion of the self that is, as we shall see, an unwarranted Onto-theological inheritance. For Kant, the phenomenal self, characterized by growth, change, development, in short, a self that possesses neither a fixed, produring nature, nor any identifiable eternal essence, cannot be accepted as the real self. Though Hume points, as we have seen, to the absence of any essential identity in introspection, Kant properly recognizes the critical warrant for presupposing a self that is more than a flux of random perceptual experiences. Following the transcendental deductive method, Kant will see the noumenal self as the condition without which our experiences could not be unified so as to belong to any single, identifiable self. Given that our experiences are uniquely our own, and can be claimed by the self to whom they belong, Kant feels justified in positing a noumenal self existing behind the phenomenal one. Hegel and Nozick acknowledge the critical warrant for the positing of a unifying self, but find this nominal self simply a Cartesian "soul pellet" by another name. As noumenal, this self, by definition, stands outside the evolving world of appearances, much like the political sovereign at remove from the competing interests of his subjects. This phenomenal world of experience however is, as Kant himself points out, the only one to which we have any access, rational or

otherwise. In this world, the one of appearances, the self, as Kant concedes, is never experienced as unchanging. The noumenal self, situated *outside* the phenomenal realm, imposing its legislative authority upon the phenomenal self, cannot but, contrary to Kant, appear in the manner of an *external authority*. By separating the noumenal from the phenomenal self in this fashion, the *regulative unity of reason* that the noumenal self imposes upon the moral sphere necessarily appears as an external law, imposing its desire for order without interest, or regard, as indeed Kant demands, to the evolving interests and needs of the phenomenal, that is to say, the always situated self. Indeed, situated out side the world of experience, this noumenal self can have no real interest, which for Kant would be necessarily heterogamous, other than to exert its own law, dictatorially upon it. For reason to possess any such interest , pathological in Kant's terms, would be turn reason once again into a mere slave:

> The power of the soul over all our faculties and circumstances to make them submit to its free and undetermined will is autocratic. Man must give this authority its full scope: otherwise he becomes a plaything of other forces and impressions which withstand his will and prey to the caprice of accident and circumstance. If he surrenders authority over himself, his imagination has free play; he cannot discipline himself, but his imagination carries him away...he yields willingly to his senses, and becomes their toy and they sway his judgement (*Lectures on Ethics* 140).

All real interest is thus tainted with sensuousness, making our attention to it heteronomous. The phenomenal self must therefore remain in servitude, in this case, as Hegel, points out, to the despotism of reason. Although, as we have seen, Kant believes that because the legislative authority resides within our own reason it, for that reason, no longer appears as an alien force. It should be clear however, that the phenomenal self, like Kafka's K, "standing before the law", finding its interests neglected and disparaged, can find this sovereign, to whom, as noumenal, it cannot petition, as external as any other sovereign. Indeed, Kant seems to concede as much in the following: "the very fact that it is ourselves we seek to master makes it difficult, for then our powers are divided; sensibility is in conflict with the understanding" (*Lectures on Ethics* 139). Or again, "but internally we are not free; each of us is bound by the necessary and essential end of humanity. Every obligation is a kind of compulsion" (*Lectures on Ethics* 30). This state of internal *division*, separating the inclinations, having their origins in sensibility, from the demands of reason or morality, opens for Kant a chasm that can be bridged, as we shall see, only by means of pre-critical postulates. In the absence of which, however, the systematic unity reason itself demands, would

not pertain. Reason would remain forever divided against itself.

The above discussion also raises for Kant the problem of explaining how reason, if not directed by any actual situated interests the subject has, indeed often requiring the repression of such interest, can, at the same time, still be "practical". That is, how can reason, after excluding from its motive force anything from the side of the inclinations, ensure that its law will be complied with? As Kant notes, moral "dispositions compel men to do violence to their inclinations" (*Lectures on Ethics* 105). Kant however draws analogy to reason's operation in its theoretical employment: "concerning itself exclusively with absolute totality in the employment of the concepts of the understanding, and endeavor to carry the synthetic unity, which is thought in the category, up to the completely unconditioned (*Critique of Pure Reason* 315)". That is, reason seeks to impose a similar regulative unity upon the moral sphere. Reason, as noted earlier, contrary to Hume, thus has its own interests, interests which are intrinsically hostile to those of the appetitive self:

> the understanding, obviously, can judge, but to give this judgement of the understanding a compelling force, to make it an incentive that can move the will to perform the action - this is the philosopher's stone! The understanding [later the faculty of reason as distinct from the understanding] takes account of everything which has a bearing on its rule. It accepts all those things which conform to the rule and opposes those which conflict with it. But immoral actions conflict with the rule; they cannot be made a universal rule; the understanding, is, therefore, hostile to them as they are hostile to its principle. Thus in a sense a motive force is embedded in the individual in virtue of its own [rational] nature (*Lectures on Ethics* 44).

As is apparent however, this "hostility" remains perpetually unresolved. Because the faculty of reason is external in its legislative function, distinct from all other interests, no unity, *the harmony reason is yet compelled to achieve*, can, in principle, ever be realized. We are condemned to perpetual struggle with ourselves, between two irreconcilable sets of interests, each attempting to exert hegemony over the other. It remains an open question if the strength of the moral imperative can, in fact, win the war it has declared and upon which our autonomy is thought to rest:

> These duties and the dignity of humanity demand that man should have no passion or emotion, but though this is the principle, it is open to question whether man can really achieve so much (*Lectures on Ethics* 146).

This open question is soon closed: "[N]o one who has the law explained to him in its absolute purity can be so foolish as to imagine that it is within his powers fully to comply with it" (*Lectures on Ethics* 146). It

is more than ironic that the path we are now on was dictated from the transcendental deduction following from the "ought implies can". What conditions, Kant has been asking, must we necessarily presuppose so as to explain the categorical obligation we have to fulfill the moral law:

> For since reason commands that such actions should take place, it must be possible for them to take place. Consequently, a special kind of systematic unity, namely the moral, must likewise be possible *(Critique of Pure Reason 637)*.

It would perhaps seem less forced to concede that because we cannot comply, the ought, at least as Kant conceives it, fails to oblige.

The only means by which Kant is able to bridge the chasm, ensuring in other words, that by following the moral law, a harmony between duty and happiness will be achieved is to posit, as a third, independent, mediating power, God. God, the external of reason, inaccessible to its conceptual grasp, achieves, in Hegelian terms, a synthesis between the contingent appetites and their antithesis, the moral law. Both to ensure an ability to overcome "our natural infirmity" (*Lectures on Ethics* 107), and achieve an otherwise unattainable reconciliation between our divided selves, we must posit God: "[T]he principle of morality is inconceivable except on the assumption of a supremely wise will" (*Lectures on Ethics* 79).

At the level of the political the same contradictions recur. Although the sovereign is the principle of unity, as is the moral law within our personal lives, he also remains an external other to whom one is obliged to obey. Unlike Hobbes of course, Kant believes that the sovereign "ought" to constrain his will, conforming his laws to those principles reason suggests. There is however no reason to suppose that he will do so. To protect against the arbitrary will of the sovereign Locke and the early Nozick maintain that "the people" retain a right to revolution. In this manner, they argue, the laws of the state and those of morality can be brought into harmony. Kant, like Hobbes, denies the validity of any such right. He, like the libertarians, wishes to see the same harmony established between reason and the world in which it is situated. Having excluded the right to revolution as morally impermissible, regardless of the situation, Kant must once again turn to God, as his essay "The Idea of a Universal History with a Cosmopolitan Purpose" demonstrates, as the condition without which such harmony could not be possible. It is necessary for him to establish that such a possibility, a utopian conclusion to history, is not, in principle, unattainable. If it were there could be no meaning in complying with the commands of reason.

Reading Kant in terms of his broader systematic philosophy, the figure of the sovereign must be understood to represent reason's political correlate. It is for this reason that Kant rejects any Lockian right to revolution. For Kant, the sovereign, like the moral faculty within the individual, is that condition without which the state could not exist. Read in these terms, as Kant argues we must, in other words as a consistent social atomist, revolution would represent the very negation of this constitutive principle. As reason's correlate in the political sphere, revolution, by overthrowing the sovereign, in the hopes of making the state more responsible to reason's demands, would contradict the very principle that the state's existence presupposes. The unity implied in Locke's use of the singular term "The People" presupposes the sovereign as its condition of possibility. Indeed, one is able to find substantial support for Kant's reading within Locke's own work:

> This [the dissolution of government] is to demonstratively to reduce all to anarchy, and so effectively to *dissolve the government:* for laws not being made for themselves, but to be, by their execution, the bonds of the society, to keep every part of the body politic in its due place and function; when that totality ceases, the *government* visibly *ceases,* and the people become a confused multitude, without order or connexion (*Second Treatise of Government* 110).
>
> Or again:
>
> [I]t is in their *legislative*, that the members of a common-wealth are united, and combined together into one coherent living body. That *is the soul that gives form, life, and unity,* to the common-wealth...therefore, when the legislative is broken, or dissolved, dissolution and death follows: for the *essence and union of the society* consisting in having one will, the legislative, when once established by the majority, has the declaring, and as it were keeping of that will (*Second Treatise of Government* 108).

Failing all else, Kant must posit God as that force necessary to bring rational form to bear upon a morally recalcitrant world. Although Kant attempts to make the *concept* responsible to the dictates of reason, immanent to its demands, it is clear that God, standing outside the boundaries of reason's autonomous province, is the "other" of reason. Reason, in other words, has transgressed its own law. The "critical Philosophy", in positing a *deus ex machina* ends, in dogmatism. Kant, in another pre-critical reversal of critical gestures made earlier, requires that we also postulate the immortality of the soul and freedom as causation. All of which again prove necessary to connect the demands that the moral law places upon us with our individual happiness. In a world where we continue to see the vicious prosper and the virtuous suffer, we must, in short, be able to believe that there is a *necessary* connection between the fulfillment of the moral law and our happiness. Such a necessity in a radically contingent universe, as Kant points out, appears tenuous at best. At worst, the moral standpoint becomes seen as self delusional, the result of our

attempts to impose our rational categories upon a world that is independent of them. Kant theorizes this gap as the difference between the form reason wishes to impose and the "initself" of the world. Without the guarantee that God provides, resentment and despair are, Kant argues, certain to follow. This leads to the rejection of the constraints morality would place upon us. We would return then to the Hobbesian state of war. A war within our selves as well as amongst ourselves.

> We are necessarily constrained to represent ourselves as belonging to such a world, while the senses present to us nothing but a world of appearance, we must assume that moral world to be a consequence of our conduct in the world of sense (in which no such connection between worthiness and happiness is exhibited), and therefore to be for us a further world. Thus God and a future life are two postulates which according to the principle of pure reason are inseparable from the obligation which the same reason imposes upon us (*Critique of Pure Reason* 639).

In the same critique however, the first, Kant makes clear that we have no rational warrant for the belief in the soul. The noumenal self is merely the necessary unity standing behind our various individual experiences. As far as freedom of the will is concerned, Kant freely admits that it is beyond all rational comprehension, an occult quality: "All human reason is totally incapable of explaining this, and all the effort and labor to seek an explanation is wasted" (*Groundwork of the Metaphysics of Morals* 129). The same can be said of the other postulates as well, explaining their differential status as mere postulates. Freedom of the will, as we have seen, is for Kant a necessary presupposition of morality. We must be able, he argues, or at least believe we are able, to brake the chain of efficient causation and act as our own "first causes". Kant assumes that if all there is is efficient causation then our actions would, in the causal sense, in their origins, be entirely external to us. Our behavior would be the product of forces, the origin of which long preceding us, and over which we could of course have no control. Yet, such freedom violates, or at least strongly appears to violate, the necessary unity presupposed in experience. In the first critique Kant, in a brilliant deduction, demonstrates that miracles, disruptions of the laws of nature, violate, or contradict, conditions necessarily presupposed in the possibility of determinate experience. Kant points out, contrary to Hume, that we cannot attribute the principle of causal regularity to merely psychological habit or custom. Events must possess a determinate, and in principle retrievable, objective order; an order against which we can, if necessary, test our subjective attempts at synthesis. In the absence of which regularity, we would enter an enchanted, rhapsodic world of miraculous appearance and disappearance.

Experience however, as the critical Kant defines the concept, requires more than the mere presence of discrete percepts, but presupposes a necessary unity amongst them. Without the regularity ensured by the principle of causality, this unity would be violated. We would be left with only the random associations of perceptions of the sort indistinguishable from a dream state. An understanding of an event's occurrence can emerge only through situating it in the ordered context in which it emerged, demonstrating thereby, its thoroughly mediated relationships of dependency and causal reciprocity.

To escape the contradiction to this principle implied in "intellectual causation" (*Critique of Pure Reason* 285). Kant has recourse to "the two standpoints" doctrine (*Groundwork* 118). We must view, in other words, the same human actions under two very different, indeed mutually exclusive, descriptions. Actions, in so far as they manifest themselves in the phenomenal world must be amenable, in order to ensure that the conditions presupposed by experience are preserved, to explanation in terms of efficient causation. Yet, in so far as they are the actions of a moral agent, we must explain them in terms of freedom, understood precisely as the freedom from the principle of causality. We are thus able to escape open contradiction only by assuming the cost of a specious compatibalism. Such freedom, contradicting all experience, indeed the very conditions presupposed by it, remains, for Kant himself, an occult quality:

> Thus freedom is no concept of experience, nor can it be such, since it continues to hold although *experience shows us the opposite* of those requirements which are regarded as necessary under the presupposition of freedom. On the other hand, it is just as necessary that everything which takes place should be infallibly determined in accordance with the laws of nature: *and this necessity of nature is likewise no concept of experience, precisely because it carries with it the concept of necessity and so a priori knowledge.* The concept of nature is, however, confirmed by experience, that is coherent knowledge of sensible objects in which accordance with universal laws. Hence, *while freedom is only an idea of reason whose objective reality in itself is questionable, nature is a concept of the understanding, which proves, and must necessarily prove, its reality in examples from experience.* From this there arises a dialectic of reason [i.e. in Kant's terms a contradiction], since the freedom attributed to the will seems incompatible with the necessity of nature[.] (*Groundwork*, italics added, 123).

Kant in the following appears to express his own doubt regarding the theoretical stability of this compatibalism:

> We must be at least get rid of this seeming contradiction in a convincing fashion - although we shall never be able to comprehend how freedom is possible. For if the thought of freedom is self contradictory or incompatible with nature - a concept equally necessary - freedom would have to be completely abandoned in favor of natural necessity (*Groundwork* 124).

Appendix II

Although I have discussed the dialectic of identity that takes place within Mark Twain's *Huckleberry Finn* at length elsewhere, I believe that by revisiting it in this context we might gain a better understanding of how the various aspects of Nozick's theory work together, providing us with the discursive tools necessary to any adequate theorization of individual and social identity. As we have seen, it is around the conception of identity that political philosophy revolves. Within Twain's novel we have the dialectic of identity played out before us. What makes this work particularly valuable to us here is that readers, in following the narrative flow, must undertake for themselves, in living the story vicariously through Huck, the same 'cognitive labor' that he is compelled by experiences to assume. We experience with Huck an insufficiency, becoming ever more apparent, between the identity the slave Jim is obliged to assume, the universal under which his individual existence is socially subsumed within the pervading cultural logic, and the concrete, cognitively disruptive reality he, through his reality represents. This is precisely the approach Hegel takes in the *Phenomenology*. By undertaking the journey of reason for ourselves, able to escape contradiction and frustration only by successively adapting the position with which we began, do we see that the conclusions reached have the force of necessity behind them. (This is also the approach that this thesis has attempted to replicate.) The virtue of this novelistic account of the struggle of a slave to achieve a social recognition that is adequate to his reality is that it does not presuppose the presence of an already constituted autonomous subject, a subject to whom individual rights are presumably, always already owed, but denied to him. The question that the relational/responsive view would ask is how is it that we know that such rights exist? As Hegel points out, presupposed in contractual relations is the principle of reciprocal recognition. The libertarian however never undertakes a demonstration of how such a reciprocity of recognition comes about in the first place (*Philosophy of Right* 103). In the temporal/narrative flow of the novel Jim is forced to realize his identity through his own efforts. (How could this be otherwise?) Yet for this identity to be realized it must be recognized, i.e.

socially confirmed. It will be my contention that this confirmation will come from Huck, but not for that reason in a merely subjective fashion. This point rests upon an argument made earlier. Neither Huck nor Jim can be seen as islands sufficient unto themselves. Their individual lives and subjective identities have social presuppositions. They are members of a discursive community. Thus, the categories through which their lives are ordered are necessarily social:

> But always and everywhere customs supply the standards for personal activities. They are the pattern into which individual activity must weave itself...Customs in any case constitute moral standards. For they are active demands for certain ways of acting (*Human Nature and Conduct* 54).

Thus although the experiences Huck shares with Jim are not socially available, or public, the disruption to the previously social stable categories and the subsequent recognition of their objective inadequacy have a social relevance. This point is significant because only Huck and Jim undergo the entirety of the dialectic, although various persons are confronted by similar, potentially disruptive experiences. Unlike the cognitive responsibility demonstrated by Huck, acting upon the Nozickian ethic of response, these others preserve their discursive order through a variety of coping strategies. These strategies, denial and repression predominately, serve to reestablish the semblance of coherent meaning. This will raise for both Jim and the ethic of responsiveness the problem of 'repetition'. Other than Huck, agents in the novel, when confronted by the potentially unbalancing experience Jim's ethical behavior presents, persist in forcing these experiences into [illegible] thereby to a comforting normalcy. As Dewey asserts, only through a situated and active responsibility to the difference the concrete and particular existent presents to our experience do we stop the thoughtless, mechanical reproduction of social meaning:

> But receptivity is not passivity. It, too, is a process consisting of a series of *responsive* acts that accumulate toward objective fulfillment. Otherwise, there is not perception but recognition. The difference between the two is immense. Recognition is perception arrested before it has a chance to develop freely. In recognition there is a beginning of an act of perception. But this beginning is not allowed to serve the development of a full perception of the thing recognized. It is arrested at the point where it will serve some *other* purpose, as we recognize a man on the street in order to greet or avoid him, not to see what is there.
> In recognition we fall back, as upon a stereotype, upon some previously formed scheme (*Art As Experience*, italics added 52).

This perceptual attentiveness is exactly what Nozick's ethical view speaks to: "To be responsive, we

should note, is *not* to be in a passive mode; an apt and creative response to a situation can constitute a decided intervention, though one attuned to the context" (*The Examined Life* 45).

Only after such an active awareness is demonstrated can the process of adapting our conceptual field so that it will permit us to bring this reality coherently within the unity of our social experience occur.

As the narrative begins, not only does society subsume Jim under the category of slave Jim does so himself. His identity, demonstrating the interpretive value of Nozick's theory of identity, is, as Twain is at pains to point out, essentially mediated through recourse to the concept of slave. This subject position is the only one available to him. It is clear that Jim does not run away because he feels his rights as an autonomous agent are being violated, or that the concept of slave is insufficient to him. Rather, Jim "steals" himself away simply because he does not wish to be sent "down south". As a slave, in Kantian terms, Jim's value exists not for or in himself, but for another. Being a use value, Jim's meaning is fully convertible to monetary terms. It is a currency with which Jim fully identifies: "Yet - en I's rich now, come to look at it. I owns myself, en I's wuth eight hund'd dollars" (*Huckleberry Finn* 204). Although Jim is in *de facto* possession of himself, he does not truly own himself and it is this 'crime', the crime of possessing stolen property, or rather assisting in its commission, that continues to haunt Huck's conscience. Indeed, even Jim seems to accept his guilt.

Although Jim acknowledges his guilt he is subjectively drawn to disregard it. As the dialectic unfolds however, he becomes less concerned with being sent down the river than with achieving true possession of himself. At one point Jim explicitly draws an equality of outcomes between death and slavery. For the ethics of response, this point is decisive in establishing his autonomy. Jim is, or rather, has become greater than the eight hundred dollars he is said to be the social equivalent of: "He judged it was all up with him, anyway it could be fixed; for if he didn't get saved he would get drownded; and if he did get saved, whoever saved him would send him back"[.] (225). For Huck however, feelings of culpability deeply trouble him. When he schematizes the events of Jim's escape through the only forms available to him, he cannot but conclude, indeed with all the coerciveness of a logical deduction, that Jim is guilty of theft, and he of willful complicity:

> Jim said it made him all over treambly and feverish to be so close to freedom. Well, I can tell you it made me all over treambly and feverish, too, to hear him, because I began to get it through my head that he was

most free - and how I was to blame for it? Why, me. I couldn't get that out of my conscience, no how no way...it stayed with me, and scorched me more and more. I tried to make out to myself that I warn't to blame, because I didn't run him off from his rightful owner; but I warn't no use (234).

What prevents Huck from responding as his conscience demands are experiences that subtly disrupt the adequacy of the first premise, the concept of slave, operating within this social syllogism. Without these falsifying experiences the dialectic would be brought to an abrupt halt. Nothing would prevent the legitimate reproduction of meaning. The singular event of Jim's escape would easily be subsumed in the socially and cognitively responsible manner, and an appropriate deductive conclusion then reached. One significant confrontation between 'object', Jim, and concept, slave, occurs after a terrible storm. Jim believes Huck to have been washed over board and drowned. Huck however is alive and well. He subsequently sneaks on board as Jim succumbs to an exhaustive sleep. Huck pretends that the storm and events surrounding them are merely the product of Jim's dreams. After being briefly taken in, Jim raises angry protest at being made the butt of Huck's joke. It is however with great risk that Jim expresses this anger. His social status not only preclude him from feeling and therefore asserting indignation, he very easily could have alienated Huck, moving him to turn Jim in. Allowing Huck to make sport of him in this fashion in this relatively innocuous fashion would seem a small price to pay for one's freedom. What becomes clear to Huck through this experience is that the category of use value no longer seems appropriate. Further, the effectiveness of Huck's joke required for its effect a very real concern on Jim's part for Huck's well being. Jim, 'an unthinking, uncaring slave', demonstrates a depth of feeling Huck's own father lacks. Cognitively, Huck is confused. The use he made of Jim was minor compared to other uses to which a slave can be legitimately put. Yet by being compelled by his own conscience to apologize, as the only means by which he can digest the event, Huck demonstrates to the satisfaction of himself that 'friend' would, if only implicitly at this point, be a much more appropriate concept to begin the explanatory syllogism than would slave. Though the experience leaves him no recourse, the tension this resolution causes to social expectations is nevertheless acutely felt:

It made me feel so mean I could almost kissed his foot to get him to take it back. It was fifteen minuets before I could work myself up to go and humble myself to a nigger - but I done it, and I warn't ever sorry for it afterwards neither (233).

This dialectic continues to weave its way along, mirroring the raft's journey down the river,

working to free Huck and Jim of the strong gravitational pull of conservatism and the regulative force reproducing the established social order. This weight of conservatism, the responsibility to the prevailing social meanings, lead to ethical inertia:

> And then think of me! It would get around that Huck Finn helped a nigger to get his freedom; and if I was to ever see anybody from that town again, I'd be ready to get down and lick his boots for shame...my wickedness was being watched all the time from up there in heaven, whilst I was stealing a poor old woman's nigger (329)[.]

And yet, after seeming to have reconciled himself to his guilt, his conscience remains in a state disequilibrium. Established categories simply do not seem adequate in responding to Jim:

> And I about made up my mind to pray; and see if I couldn't try to quit being the kind of a boy I was, and be better...But the words wouldn't come. Why wouldn't they? I knowed very well why they wouldn't come. It was because my heart warn't right; it was because I warn't square; it was because I was playing double (329).

Huck has, in short, the feeling of being unable to process his experiences, with the categories available to him, into a coherent unity. Referring back to Dewey's discussion of perception, we see that the categories through which Jim is to be socially recognized prove insufficient to the perception Huck has of him.

There is one decisive event that establishes, finally, that the received categories cannot do justice to Jim's identity. Thereafter, Huck is unable to make even minimal, groping use out of, nor feel morally constrained to subsume Jim under, the concept of slave. Speaking in terms of the logic of identity, the concept proves to be in contradiction to its 'object'. This result, arrived at immanently, does not then appear as an assertion of rights from the outside:

> He was thinking about his wife and children, away up yonder, and he was low and homesick and I do believe he cared just as much for his people as white folks does for ther'n. *It don't seem natural, but I reckon it's so* (286 italics added).

Following this experience, Huck no longer feels inwardly torn. He has decided in favor of Jim's freedom. Only by doing so can Huck return to a state of cognitive balance. In terms of the unity of consciousness, in other words, it is least undermining to the regulated unity of his experiences to interpret society's definition of Jim to have been a mistake. This interpretation, on wholistic grounds, is the most 'economical', involving greatest unity at the least cost. Huck now becomes frustrated as he sees others ignore, or repress the experiences Jim presents to their preconceptions: "After all this long journey, and

all we'd done for them scoundrels...they could have the heart to serve Jim such a trick as that and make him a slave again all his life (339)[.] No longer is Jim seen as a slave in the essential sense. Huck now consigns this concept to the status of the arbitrary, it represents, in Hegel's terms, an external imposition of social form. The conspicuous presence of the verb "make" in the above quote indicates an awareness on Huck's part that Jim's identity as slave is merely a social construction, one that is insufficient to Jim's reality. This is something that the others refuse, even in light of strong evidence, to acknowledge. The doctor, who Jim stays back to assist at the cost of his own freedom, is unable or refuses to conceive of Jim in any other terms than those reserved for use values: "I tell you, gentlemen a nigger like that is worth a thousand dollars and kind treatment too (384)". For Huck however, responding to the value Jim manifests, such terms, as much as the prevailing discursive boundaries will allow, prove themselves too reductive to be useful: "I knowed he was white inside" (377)[.] It is clear that color has become, in Huck's summary of his experience, entirely extrinsic to Jim's moral character. Huck and Jim at this point are able to bring the interpretive instability that moved the dialectic forward to rest. In reciprocally recognizing each other as moral agents there is no tension between the categories each subsumes the other under, and the concept that each *feels* is adequate to his own identity. The ethical push has become, in Nozick's terms, equal to the pull:

> Ethics is harmonious when the push is at least as great as the pull, when the person's own value leads him to behave toward another as the value that the other requires. There is an ethical gap when the push is less than the pull, a difference between what the value of another requires from you and what the expression or outflow of your own value involves (401).

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